

Final

# BALLONA WETLANDS RESTORATION PROJECT

Environmental Impact Report

State Clearinghouse No. 2012071090

Volume 1: Chapter 1 through Comment Letter O3

Prepared for

December 2019

California Department of Fish and Wildlife,  
South Coast Region (Region 5)



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# CHAPTER 1

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## Introduction

### 1.1 Purpose

Before a lead agency may approve a project that is subject to the California Environmental Quality Act (CEQA) and may result in significant environmental impacts, it must prepare and certify a final environmental impact report (EIR) for the project (CEQA Guidelines §15089). This Final EIR has been prepared by the California Department of Fish and Wildlife (CDFW) for consideration of a proposal to restore the Ballona Wetlands Ecological Reserve (Ballona Reserve) pursuant to the Ballona Wetlands Restoration Project (Project).

CDFW manages and maintains primary ownership of the Ballona Reserve, with a smaller interest owned by the California State Lands Commission. Under State law, CDFW is the public agency that has principal responsibility for carrying out or approving the Project, and so is the Lead Agency for purposes of CEQA. CDFW has directed the preparation of this Final EIR and will use it, in conjunction with other information developed in CDFW's formal record, when considering whether to certify the Final EIR and approve, modify, or deny the Project.

### 1.2 Context

The Los Angeles County Department of Public Works—Flood Control District (collectively, LACFCD) owns and operates the Ballona Creek channel and levee system, which are features of the Los Angeles County Drainage Area (LACDA) project authorized by Congress in 1990. The U.S. Army Corps of Engineers (Corps), in cooperation with the LACFCD, constructed the Ballona Creek channel and levees within the Ballona Reserve as part of the LACDA project.

The LACFCD and the Corps have jurisdiction over the Ballona Creek channel and levee system within the Project Site. As a result, authorization from the Corps under Section 404 of the Clean Water Act and Sections 10 and 14 of the Rivers and Harbors Act would be needed to carry out the Project. Corps approval also would be required to modify the Operation, Maintenance, Repair, Replacement and Rehabilitation Manual<sup>1</sup> (OMRR&R) to reflect any approved changes to existing LACDA project infrastructure within the Project Site. Because the Corps is the federal agency that has taken primary responsibility for analyzing the potential environmental consequences of the Project under the National Environmental Policy Act (NEPA), the Corps is the NEPA Lead Agency.

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<sup>1</sup> U.S. Army Corps of Engineers, Los Angeles District, 1999. Operation, Maintenance, Repair, Replacement and Rehabilitation Manual. Los Angeles County Drainage Area. December 1999.



In accordance with NEPA and CEQA, the Corps and CDFW cooperatively prepared a Draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR) as a joint environmental analysis to evaluate the environmental impacts of the Project. The Corps and CDFW issued the Draft EIS/EIR in September 2017.

The Draft EIS/EIR described three restoration alternatives; evaluated and described the potential environmental impacts of restoration activities including construction, and operation and maintenance; identified those impacts that could be significant; and presented mitigation measures that, if implemented, could avoid or minimize these impacts. The restoration alternatives evaluated were Alternative 1: Full Tidal Restoration/Proposed Action; Alternative 2: Restored Partial Sinuous Creek; and Alternative 3: Levee Culverts and Oxbow. The Draft EIS/EIR also analyzed one no-project alternative, Alternative 4: No Federal Action/No Project Alternative.

The Corps and CDFW worked together to produce the Draft EIS/EIR and seek comments from other agencies, organizations, and members of the public on the Draft EIS/EIR. However, the Corps and CDFW have elected to prepare stand-alone final environmental analyses pursuant to NEPA and CEQA, respectively.

The following items must be included in a final EIR: the draft EIR or revision to the draft EIR; comments and recommendations received; a list of agencies and others who commented on the draft; and the lead agency's responses to significant environmental points raised during the review period (CEQA Guidelines §§15132, 15362). This Final EIR consists of the September 2017 Draft EIS/EIR,<sup>2</sup> CDFW's responses to comments received (Final EIR Chapter 2), and CDFW's revisions to the Draft EIS/EIR (Final EIR Chapter 3).

CDFW prepared this Final EIR to comply with CEQA. This Final EIR is not intended to comply with NEPA. The Corps will prepare a final EIS sometime after publication of this Final EIR. The responses to comments in Final EIR Chapter 2 are CDFW's responses. CDFW's responses do not speak for the Corps or affect the Corps' NEPA process or any future Record of Decision. Revisions to the Draft EIS/EIR provided in Final EIR Chapter 3 are revisions that have been made by CDFW on the Draft EIS/EIR and similarly do not govern the Corps' NEPA process.

## 1.3 Project Overview

The Ballona Reserve is located in Southern California, south of Marina del Rey and east of Playa del Rey. It extends roughly from the Marina Freeway (State Route [SR] 90) to the east, the Westchester bluffs to the south, Playa del Rey to the west, and Fiji Way to the north.

Seeking to restore degraded wetland habitat and functions within the Ballona Reserve, CDFW is proposing a large-scale effort to restore, enhance, and establish native coastal wetland and upland habitats on approximately 566 acres within the Ballona Reserve; these efforts would

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<sup>2</sup> The Draft EIS/EIR is contained on the CD located inside the front cover of printed copies of this Final EIR. A digital copy of this Final EIR is included on the same CD. Reference materials relied upon in preparing this Final EIR are available for review during normal business hours at the California State Coastal Conservancy, 1515 Clay Street, 10th Floor, Oakland, CA 94612, and online on the Project website: <https://www.wildlife.ca.gov/Regions/5/Ballona-EIR>.



require incidental work on adjacent property. To implement the proposal, CDFW is working with the LACFCD to modify LACDA project features (e.g., the Ballona Creek channel and levee system) within the Ballona Reserve. The three main components of the Project are restoring wetlands and wetland functions within the Ballona Reserve; restoring and improving public access to the Ballona Reserve; and maintaining existing levels of flood risk management provided by the Ballona Creek channel and levee system.

Natural gas storage and monitoring wells and associated pipelines owned and operated by the Southern California Gas Company (SoCalGas) are located within the Ballona Reserve. The Project would relocate the active wells affected by the proposed restoration activities to SoCalGas's property adjacent to the Ballona Reserve; the natural gas pipeline also would be relocated. For purposes of the Draft EIS/EIR and this Final EIR, the approximately 4-acre area of potential well relocation sites (Sites 1–7, the “SoCalGas Property”) and the approximately 566 acres of the Ballona Reserve that are within the proposed restoration boundary together constitute the “Project Site.”

The Project includes all of the following restoration-related components:

1. Removing approximately 9,800 feet of existing Ballona Creek levees.
2. Realigning Ballona Creek to a “meander-shaped” channel configuration.
3. Restoring, enhancing, and establishing estuarine aquatic and associated upland habitats connected to the realigned Ballona Creek.
4. Improving tidal circulation into the site and implementing other modifications to create dynamic interactions between the Ballona Creek channel, aquatic resources within the Ballona Reserve, and the Santa Monica Bay and thereby support estuarine and associated habitats within the Ballona Reserve.
5. Modifying existing infrastructure and utilities as necessary to implement restoration activities, potentially including the abandonment or relocation of SoCalGas wells and pipelines.
6. Implementing long-term post-restoration activities as needed, including inspections, repairs, clean-ups, vegetation maintenance, and related activities.

Public access–related improvements include:

1. Realigning existing trails atop constructed levees and creating new trails with interpretive and learning opportunities focused on the natural resources and cultural context of the restored and enhanced native wetland and upland habitats.
2. Constructing two bike and pedestrian bridges to provide access to North Area C (over Culver Boulevard) and Area B (over Ballona Creek).

Flood risk management–related components include:

1. Constructing new engineered levees set back from the existing Ballona Creek channel in Area A (6,300 feet) and along Culver Boulevard (8,000 feet).



2. Realigning the existing Ballona Creek channel with a more natural meander-shape through the Project reach.
3. Installing, operating, and maintaining new hydraulic structures (potentially including culverts with self-regulating tide gates or similar structures) to allow for controlled tidal exchange from the Ballona Creek channel to South and Southeast Area B.
4. Implementing the following improvements:
5. Earthwork, including fills, cuts, and slopes as well as levee and embankment replacements, relocations, and removals.
6. Concrete and stone work, including (i) removal of concrete from the Ballona Creek channel side slopes and replacement and attendant removal of integral parts of diversion works, side drain structures, and public utilities; as well as (ii) construction of two new bridges for soil transport during the restoration phase and for bicycle and pedestrian use post-restoration (one bridge would be constructed over Lincoln Boulevard, the other over Ballona Creek).
7. Subdrain system work, including open systems with outlets into the channel, and pipeless gravel drains behind channel walls with weep holes.
8. Side drain and related gate work.
9. Fencing work, including wall safety fencing, safety fencing at ends of channels, covered channel barricades, spillway safety barricades, public utility safety barricades, access gates, and chain barricades.
10. Bridge and (potentially) related bridge abutment work, including freeway, highway, street, railroad, pedestrian, public utility, gaging station, and diversion works bridges.
11. Bituminous surfacing, including surfaced berm roadways, surfaced berm-access ramps, and surfaced side drain entrances.

The following activities do not require a permit or approval from the Corps, but are evaluated in the EIR: Constructing, operating, and maintaining a new three-story parking structure within the existing parking footprint in Area A; and improving the existing West Culver Parking Lot in the southwest corner of West Area B and the surface lot that would be next to the proposed three-story parking structure.

## **1.4 Agency and Public Involvement**

### **1.4.1 Agency and Public Review of the Draft EIS/EIR**

CDFW and the Corps circulated the Draft EIS/EIR to Federally recognized and State-recognized Tribes (Tribes); Federal, State, and local agencies; adjacent property owners; and interested individuals who wished to review and comment on the analysis.<sup>3</sup> The Draft EIS/EIR, appendices,

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<sup>3</sup> ESA, 2017a. Distribution list of the Ballona Wetlands Restoration Project Draft EIS/EIR. September 2017.



and all documents referenced in the Draft EIS/EIR also were made available for public review during normal working hours at the following locations:

California State Coastal Conservancy  
1515 Clay Street, 10th Floor  
Oakland, CA 94612

County of Los Angeles Public Library  
Lloyd Taber–Marina del Rey Library  
4533 Admiralty Way  
Marina del Rey, CA 90292

Los Angeles Public Library  
Playa Vista Branch  
6400 Playa Vista Drive  
Los Angeles, CA 90094

Los Angeles Public Library  
Westchester–Loyola Village Branch  
7114 W. Manchester Avenue  
Los Angeles, CA 90045

In addition to printed copies, interested parties could access the Draft EIS/EIR electronically via the Project website at <https://www.wildlife.ca.gov/Regions/5/Ballona-EIR><sup>4</sup>; via the Corps' website at <http://www.spl.usace.army.mil/Missions/Regulatory/Projects/Programs.aspx><sup>5</sup>; and via the electronic distribution list (listserv) for the Ballona Wetlands Ecological Reserve newsletter and website, which reached approximately 1,000 people via email who previously had identified an interest in Ballona.<sup>6,7</sup>

An initial public review period for the Draft EIS/EIR began September 25, 2017, for purposes of CEQA. CDFW submitted the Notice of Availability of the Draft EIS/EIR to the State Clearinghouse on September 25, 2017; published it in the *Los Angeles Times* on September 29, 2017; and posted at the Los Angeles County Clerk's Office on October 18, 2017. Copies of the notices are provided in Appendix A, *Notices*. In them, Tribes, agencies, and members of the public were advised that a Draft EIS/EIR for the Project was available for review and encouraged to submit comments and suggestions regarding the adequacy and accuracy of the analysis and determinations made in the Draft EIS/EIR.

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<sup>4</sup> CDFW, 2017a. Draft EIR for the Ballona Wetlands Ecological Reserve. Available online: <https://www.wildlife.ca.gov/Regions/5/Ballona-EIR>. November 14, 2017.

<sup>5</sup> U.S. Army Corps of Engineers Los Angeles District, 2017. Information for Particular Projects/Programs. Available online: <http://www.spl.usace.army.mil/Missions/Regulatory/Projects-Programs>. November 14, 2017.

<sup>6</sup> Ballona Reserve, 2017. Listserv.

<sup>7</sup> Johnston, 2017. Email from Karina Johnston to Richard Brody and Janna Scott regarding Ballona stakeholder listservs. September 21, 2017.



In response to multiple requests, the Lead Agencies extended the initial comment period until February 5, 2018.<sup>8,9</sup> Notice of the extension was posted on CDFW's website,<sup>10</sup> provided to the State Clearinghouse,<sup>11</sup> and more broadly to members of the public via the listserv.

Comments on the Draft EIS/EIR were accepted via regular mail, email, and in person at a public meeting noticed for and held on November 8, 2017. CDFW's responses to comments received on the Draft EIS/EIR are provided in Final EIR Chapter 2.

## 1.4.2 Availability of the Final EIR

An electronic copy of the Final EIR (including this Response to Comments document) is being provided to all public agencies who commented on the Draft EIS/EIR (see Appendix B, *Commenting Parties*). Notice of the availability of this Final EIR and details about how to access it are also being provided to others on the distribution list for the Project (see Appendix C, *Recipients of the Final EIR*). An electronic version will be posted online (<https://www.wildlife.ca.gov/Regions/5/Ballona-EIR>).

The Final EIR is also available for public review during normal working hours at the following locations, at least until CDFW makes a decision whether to certify the EIR and approve, approve with modifications, or deny the Project:

California State Coastal Conservancy  
1515 Clay Street, 10th Floor  
Oakland, CA 94612

County of Los Angeles Public Library  
Lloyd Taber–Marina del Rey Library  
4533 Admiralty Way  
Marina del Rey, CA 90292

Los Angeles Public Library  
Playa Vista Branch  
6400 Playa Vista Drive  
Los Angeles, CA 90094

Los Angeles Public Library  
Westchester–Loyola Village Branch  
7114 W. Manchester Avenue  
Los Angeles, CA 90045

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<sup>8</sup> State Clearinghouse, 2017. Ballona Wetlands Restoration Project. November 14, 2017.

<sup>9</sup> CDFW, 2017b. Extension of Comment Period, Ballona Wetlands Restoration Project Draft Environmental Impact Statement/Environmental Impact Report (Draft EIS/EIR). October 26, 2017.

<sup>10</sup> CDFW, 2017a.

<sup>11</sup> ESA, 2017.



### 1.4.3 Additional Agency and Public Input

CDFW also received substantial additional agency and public input separate from the formal CEQA process with respect to initial planning and the proposed restoration design:

- All-day design charrette (2006).
- Twenty public stakeholder meetings (most evening meetings) held by the Project team between 2004 and 2009.
- Seven science advisory committee meetings (2006–2012), all open to the public.
- Quarterly Ballona Creek Watershed Task Force meetings for five years (2007–2012).
- More than 60 presentations to groups and the public by The Bay Foundation (2006–2013).
- More than 100 stakeholder meetings where restoration plans were discussed with or mentioned to many organizations.
- Four public on-site open house meetings (2010–2013).
- Annual symposium/conference presenting information/scientific data on Ballona (2010–2015).
- One on-site restoration event per month from 2015 through 2017 (led by the Mountains Recreation and Conservation Authority).
- One on-site restoration event per month for multiple years (led by Friends of Ballona Wetlands).
- One half-day public scoping meeting (2012); hundreds of public scoping comments are directly addressed in the EIR.



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## CHAPTER 2

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# Responses to Comments

### 2.1 Approach to Comment Responses

#### 2.1.1 Input Received

Nearly 8,000 postcards, emails, and letters with input on the Draft EIS/EIR were received. In addition, 62 people spoke at the November 8, 2017, public comment meeting. A list of participants that commented on the Draft EIR is provided in alphabetical order by last name in Appendix B, *Commenting Parties*. An additional more than 450 individuals endorsed efforts to restore the Ballona Reserve by submitting signatures in a form unlike the other comments received; the endorsement and list of signatories are provided in Appendix C. All written communications received, and a transcript of the hearing, are included in CDFW's formal record for this Project, which will be considered during CDFW's decision-making process.

Under CEQA, the lead agency "shall evaluate comments on environmental issues" received from commenters who have reviewed a draft EIR, and prepare written responses that "describe the disposition of each significant environmental issue that is raised by commenters" (Public Resources Code §21091(d); CEQA Guidelines §15088(c)). CEQA does not require that responses be provided for comments that do not address the adequacy or accuracy of the environmental analysis or that do not identify an environmental issue (*Id.*; see also CEQA Guidelines §15204(a)). Comments that do not warrant an agency response under CEQA include, for example, those that merely express favor or disfavor for an alternative or aspect of the project, or express general feelings about restoration or wetlands in general that are not specific to the proposed restoration. Such comments are referred to as "non-substantive" for purposes of the CEQA analysis. Nevertheless, CDFW provides limited responses to such comments in Table 2-1, *Responses to Non-substantive Comments*.

Regardless of whether input received is "substantive" for purposes of CEQA, i.e., whether it informs CDFW's consideration of the adequacy or accuracy of the EIR, CDFW acknowledges receipt of the input and has included it as part of the record of information that will be considered during its decision-making process. Table 2-1 contains limited responses to letters received that did not include a substantive CEQA comment.

Some commenters made similar comments and rather than repeat a response for numerous similar comments, CDFW provides a general response to those similar comments in Section 2.2, *General Responses*. Responses to letters that contained a mix of unique substantive and



non-substantive comments are provided in Section 2.3, *Individual Responses*. These responses are available in the following subsections:

- Section 2.3.1, Responses to Federal Agency Comments
- Section 2.3.2, Responses to State Agency Comments
- Section 2.3.3, Responses to Local Agency Comments
- Section 2.3.4, Responses to Native American Community
- Section 2.3.5, Responses to Form Comments
- Section 2.3.6, Responses to Organizations' Comments
- Section 2.3.7, Responses to Individuals' Comments
- Section 2.3.8, Responses to Public Hearing Comments





**TABLE 2-1  
RESPONSES TO NON-SUBSTANTIVE COMMENTS**

Letter Number	Name (Alphabetical by last name)	Date of Comment	Input Received/Brief Responses
1	Aarons, Brad	11/6/2017	Your preference for the Project (Alternative 1) is acknowledged.
2	Ach, Jim	1/12/2018	Your preference for the Project is acknowledged.
3	Alastuey, Stephen	11/8/2017	Your support for restoration is acknowledged.
4	Albright, Sophie	11/30/2017	Your preference for the Project is acknowledged.
5	Alverson, Amy	10/18/2017	Your preference for the Project is acknowledged.
6	Anderson, Jennifer	1/26/2018	Your opposition to the project and support for Alternatives 10 and 11 are acknowledged.
7	Anzai, Judy	1/27/2018	Your opposition to the Project and support for Alternatives 10 and 11 are acknowledged.
8	Arnstein, Lawrence	10/7/2017	Your request for an extension of the comment period is acknowledged. No further extension beyond the 133-day period established for this Project has been granted.
9	Artichoke, K.	2/5/2018	Your support for Friends of Ballona Wetlands is acknowledged.
10	Axt, Arielle	11/8/2017	Your support for restoration is acknowledged.
11	Azeroual, Leron	1/7/2018	Your support for restoration is acknowledged.
12	Ballinger, Mark	12/5/2017	Your preference for the Project is acknowledged.
13	Ballona Ecosystem Education Project	10/6/2017	Your request for a 120-day extension is acknowledged. State agencies generally provide a 45-day public review period under CEQA. The public review period for a Draft EIR should be longer than 60 days only under unusual circumstances. Acknowledging the duration and complexity of this Project, CDFW elected to provide an initial 60-day comment period for the Draft EIS/EIR that later was extended to a total of 133 days. No further extension was granted. See Final EIR Section 1.4.1, <i>Agency and Public Review of the Draft EIS/EIR</i> .
14	Ballona Wetlands Land Trust	9/28/2017	Your request for a 120-180-day extension is acknowledged. State agencies generally provide a 45-day public review period under CEQA. The public review period for a Draft EIR should be longer than 60 days only under unusual circumstances. Acknowledging the duration and complexity of this Project, CDFW elected to provide an initial 60-day comment period for the Draft EIS/EIR that later was extended to a total of 133 days. No further extension was granted. See Final EIR Section 1.4.1, <i>Agency and Public Review of the Draft EIS/EIR</i> .
15	Ballona Wetlands Land Trust	10/4/2017	Your request for a 120-180-day extension is acknowledged. State agencies generally provide a 45-day public review period under CEQA. The public review period for a Draft EIR should be longer than 60 days only under unusual circumstances. Acknowledging the duration and complexity of this Project, CDFW elected to provide an initial 60-day comment period for the Draft EIS/EIR that later was extended to a total of 133 days. No further extension was granted. See Final EIR Section 1.4.1, <i>Agency and Public Review of the Draft EIS/EIR</i> .
16	Ballona Wetlands Land Trust	1/29/2018	Your request for extension and inquiry into comment process are noted. State agencies generally provide a 45-day public review period under CEQA. The public review period for a Draft EIR should be longer than 60 days only under unusual circumstances. Acknowledging the duration and complexity of this Project, CDFW elected to provide an initial 60-day comment period for the Draft EIS/EIR that later was extended to a total of 133 days. No further extension was granted. See Final EIR Section 1.4.1, <i>Agency and Public Review of the Draft EIS/EIR</i> .
17	Ballough, William	9/30/2017	Your request for a 120-day extension is acknowledged. State agencies generally provide a 45-day public review period under CEQA. The public review period for a Draft EIR should be longer than 60 days only under unusual circumstances. Acknowledging the duration and complexity of this Project, CDFW elected to provide an initial 60-day comment period for the Draft EIS/EIR that later was extended to a total of 133 days. No further extension was granted. See Final EIR Section 1.4.1, <i>Agency and Public Review of the Draft EIS/EIR</i> .
18	Banachowski, Bret	1/28/2018	Your preference for the Project and support for increased public access is acknowledged.



**TABLE 2-1 (Continued)**  
**RESPONSES TO NON-SUBSTANTIVE COMMENTS**

Letter Number	Name (Alphabetical by last name)	Date of Comment	Input Received/Brief Responses
19	Barry, Craig	2/5/2018	Your sentiments regarding gas and the protection of wildlife are acknowledged.
20	Barry, Deborah	11/6/2017	Your preference for the Project is acknowledged.
21	Barthelet-Mini, Chloe	1/8/2018	Your preference for the Project is acknowledged.
22	Baun, Marci	1/6/2018	Your preference for the Project is acknowledged.
23	Beauchene, Ken	2/5/2018	Your opposition to the Project and support for Alternatives 10 and 11 are acknowledged.
24	Beauchene, Susan	2/5/2018	Your support for Alternatives 10 and 11 is acknowledged.
25	Beban, Richard	9/28/2017	Your support for Draft EIS/EIR and preference for the Project are acknowledged.
26	Beemer, Marc	1/9/2018	Your preference for the Project is acknowledged.
27	Belle, Eric	2/1/2018	Your opposition to the Project and support for Alternatives 10 and 11 are acknowledged.
28	Berberich, Joseph	1/6/2018	Your preference for the Project is acknowledged.
29	Bester, Adam	11/6/2017	Your support for restoration is acknowledged
30	Bianchini, Diana	10/9/2017	Your request for a 120-day extension is acknowledged. State agencies generally provide a 45-day public review period under CEQA. The public review period for a Draft EIR should be longer than 60 days only under unusual circumstances. Acknowledging the duration and complexity of this Project, CDFW elected to provide an initial 60-day comment period for the Draft EIS/EIR that later was extended to a total of 133 days. No further extension was granted. See Final EIR Section 1.4.1, <i>Agency and Public Review of the Draft EIS/EIR</i> .
31	Blach, Margaret	12/5/2017	Your preference for the Project is acknowledged.
32	Black, Barbara	1/31/2018	Your preference for Alternative 4, the No Action/No Project Alternative, and concern about homeless encampments are acknowledged.
33	Blaisdell, Ted	1/6/2018	Your preference for the Project is acknowledged.
34	Borgia, Danielle	10/8/2017	Your request for a 120-day extension is acknowledged. State agencies generally provide a 45-day public review period under CEQA. The public review period for a Draft EIR should be longer than 60 days only under unusual circumstances. Acknowledging the duration and complexity of this Project, CDFW elected to provide an initial 60-day comment period for the Draft EIS/EIR that later was extended to a total of 133 days. No further extension was granted. See Final EIR Section 1.4.1, <i>Agency and Public Review of the Draft EIS/EIR</i> .
35	Born, Robby	2/1/2018	Your support for restoration due to the importance of wetlands to the community is acknowledged.
36	Bradley, Amber	1/5/2018	Your preference for the Project is acknowledged.
37	Braga, Carmen	2/5/2018	Your support for Alternatives 10 and 11 is acknowledged.
38	Brighton Reynolds, Joey	10/14/2017	Your request for a 120-day extension is acknowledged. State agencies generally provide a 45-day public review period under CEQA. The public review period for a Draft EIR should be longer than 60 days only under unusual circumstances. Acknowledging the duration and complexity of this Project, CDFW elected to provide an initial 60-day comment period for the Draft EIS/EIR that later was extended to a total of 133 days. No further extension was granted. See Final EIR Section 1.4.1, <i>Agency and Public Review of the Draft EIS/EIR</i> .
39	Brooks, Fleming & Samantha	11/6/2017	Your preference for the Project is acknowledged.
40	Bruinsma, Martin	1/11/2018	Your preference for the Project and support for increased public access is acknowledged.



**TABLE 2-1 (Continued)**  
**RESPONSES TO NON-SUBSTANTIVE COMMENTS**

Letter Number	Name (Alphabetical by last name)	Date of Comment	Input Received/Brief Responses
41	Byrne, Mark	1/12/2018	Your preference for the Project and support for increased public access is acknowledged.
42	Campisi, Kirsten	10/7/2017	Your request for a 120-day extension is acknowledged. State agencies generally provide a 45-day public review period under CEQA. The public review period for a Draft EIR should be longer than 60 days only under unusual circumstances. Acknowledging the duration and complexity of this Project, CDFW elected to provide an initial 60-day comment period for the Draft EIS/EIR that later was extended to a total of 133 days. No further extension was granted. See Final EIR Section 1.4.1, <i>Agency and Public Review of the Draft EIS/EIR</i> .
43	Carlson, Roger	11/6/2017	Your preference for the Project is acknowledged.
44	Carrera, Jacqueline	12/5/2017	Your preference for the Project is acknowledged.
45	Carstens, David	1/12/2018	Your preference for the Project and support for increased public access is acknowledged.
46	Charles, David	1/6/2018	Your preference for the Project is acknowledged.
47	Chavez, Phyllis	10/9/2017	Your request for a 120-day extension is acknowledged. State agencies generally provide a 45-day public review period under CEQA. The public review period for a Draft EIR should be longer than 60 days only under unusual circumstances. Acknowledging the duration and complexity of this Project, CDFW elected to provide an initial 60-day comment period for the Draft EIS/EIR that later was extended to a total of 133 days. No further extension was granted. See Final EIR Section 1.4.1, <i>Agency and Public Review of the Draft EIS/EIR</i> .
48	Chavez, Phyllis	11/6/2017	Your preference for the Project is acknowledged.
49	Cheung, Andy	2/1/2018	Your opposition to the Project and support for Alternatives 10 and 11 are acknowledged.
50	Cislo, Dan	1/11/2018	Your preference for the Project and support for increased public access is acknowledged.
51	Connell, Madeline	12/5/2017	Your preference for the Project is acknowledged.
52	Conte, Gabrielle	12/5/2017	Your preference for the Project and support for increased public access is acknowledged.
53	Cooley, Paul	9/26/2017	Your request for a 120-day extension is acknowledged. State agencies generally provide a 45-day public review period under CEQA. The public review period for a Draft EIR should be longer than 60 days only under unusual circumstances. Acknowledging the duration and complexity of this Project, CDFW elected to provide an initial 60-day comment period for the Draft EIS/EIR that later was extended to a total of 133 days. No further extension was granted. See Final EIR Section 1.4.1, <i>Agency and Public Review of the Draft EIS/EIR</i> .
54	Coomans, Tara	1/12/2018	Your preference for the Project and support for increased public access is acknowledged.
55	Cumming, Fiona	11/8/2017	Your preference for either the Project or Alternative 2 is acknowledged.
56	Davenport, Rebecca	12/5/2017	Your preference for the Project is acknowledged.
57	Dellinger, Scott	2/5/2018	Your appreciation is acknowledged.
58	deLongeville, Marco	11/7/2017	Your preference for the Project is acknowledged.
59	Delorme, William	11/8/2017	Your support for restoration is acknowledged.
60	Devine, Reba	11/6/2017	Your preference for the Project is acknowledged.
61	DeVoe, Patricia	9/30/2017	Your preference for the Project is acknowledged.
62	DeVoe, Patricia	12/3/2017	Your preference for the Project is acknowledged.
63	Diament, Cynthia	11/7/2017	Your preference for the Project is acknowledged.



**TABLE 2-1 (Continued)**  
**RESPONSES TO NON-SUBSTANTIVE COMMENTS**

<b>Letter Number</b>	<b>Name (Alphabetical by last name)</b>	<b>Date of Comment</b>	<b>Input Received/Brief Responses</b>
64	Diament, Cynthia	11/7/2017	Your support for restoration is acknowledged
65	DiSpirito, Shellie	10/4/2017	Your preference for the Project is acknowledged.
66	Diss, Marybeth	11/6/2017	Your preference for the Project is acknowledged.
67	Diss, Marybeth	11/6/2017	Your support for restoration is acknowledged
68	Dixon, Kevin	10/12/2017	Your support for restoration is acknowledged
69	Donell, Steve	11/7/2017	Your preference for the Project is acknowledged.
70	Donell, Steve	1/5/2018	Your preference for the Project is acknowledged.
71	Dorsey, Ann	11/6/2017	Your preference for the Project is acknowledged.
72	Dunfrund, Kristi	1/5/2018	Your preference for the Project is acknowledged.
73	Edmonds, Oliver	1/9/2018	Your preference for the Project is acknowledged.
74	Edwards, Nancy	9/27/2017	Your preference for the Project is acknowledged.
75	Entner, Jessica	1/6/2018	Your preference for the Project and support increased recreational access are acknowledged.
76	Erlendsson, Lori	1/6/2018	Your preference for Alternative 4, the No Action/No Project Alternative, is acknowledged.
77	Falzone, Dominick	11/6/2017	Your preference for the Project is acknowledged.
78	Farnsworth, Steven	1/11/2018	Your support for restoration is acknowledged.
79	Fay, Douglas	2/3/2018	Regarding your question about the time of comment period close, see Final EIR Section 1.4.1, <i>Agency and Public Review of the Draft EIS/EIR</i> .
80	Finch, Kate	2/5/2018	Your opposition to the Project and support for Alternatives 10 and 11 are acknowledged.
81	Florin, Irene	1/26/2018	Your support for restoration is acknowledged.
82	Ford, Georgia	1/6/2018	Your preference for the Project is acknowledged.
83	Frankel, Rex	11/14/2017	Receipt of the map of Ballona is acknowledged.
84	Franklin, Monica D.	1/12/2018	Your preference for the Project and support for increased public access is acknowledged.
85	Frese, Glenn	10/1/2017	Your preference for the Project is acknowledged.
86	Friar, Linda R.	11/6/2017	Your support for restoration is acknowledged
87	Friends of Sunset Park	10/28/2017	Your request for extension to March 2018 is acknowledged; however, no further extension beyond the 133-day period established for this Project has been granted.
88	Fulkerson, BJ	1/11/2018	Your support for restoration is acknowledged.
89	Gelbart, Susannah	11/6/2017	Your preference for the Project is acknowledged.
90	Gialketsis, Michael P.	1/12/2018	Your support for restoration is acknowledged.
91	Gialketsis, Tony	1/12/2018	Your preference for the Project and support for increased public access is acknowledged.





**TABLE 2-1 (Continued)**  
**RESPONSES TO NON-SUBSTANTIVE COMMENTS**

Letter Number	Name (Alphabetical by last name)	Date of Comment	Input Received/Brief Responses
92	Glasheen, Susan	2/5/2018	Your preference for the Project and support for increased public access is acknowledged.
93	Gleiter, Christopher	1/11/2018	Your preference for the Project and support for increased public access is acknowledged.
94	Glover, Douglas	12/2/2017	Your preference for the Project is acknowledged.
95	Gold, Bobbi	10/5/2017	Your request for a 120-day extension is acknowledged. State agencies generally provide a 45-day public review period under CEQA. The public review period for a Draft EIR should be longer than 60 days only under unusual circumstances. Acknowledging the duration and complexity of this Project, CDFW elected to provide an initial 60-day comment period for the Draft EIS/EIR that later was extended to a total of 133 days. No further extension was granted. See Final EIR Section 1.4.1, <i>Agency and Public Review of the Draft EIS/EIR</i> .
96	Gold, Bobbi	11/7/2017	Your preference for the Project is acknowledged.
97	Goldstein, Glenn	11/6/2017	Your preference for the Project is acknowledged.
98	Graham, Ben	1/11/2018	Your support for restoration is acknowledged.
99	Gray, Morgan	10/28/2017	Your preference for the Project is acknowledged.
100	Greene, David	10/13/2017	Your support for restoration is acknowledged
101	Gregory, Deborah	1/6/2018	Your request for an extension of the comment period is acknowledged. No further extension beyond the 133-day period established for this Project has been granted.
102	Griffin, Mary	11/6/2017	Your support for restoration is acknowledged
103	Griffin, Tracy	11/8/2017	Your support for restoration is acknowledged.
104	Gross, Howard	2/4/2018	Your opposition to the Project and support for Alternatives 10 and 11 are acknowledged.
105	Gutierrez, Gabriel	1/9/2018	Your preference for the Project is acknowledged.
106	Halperin, Dan	10/7/2017	Your request for a 120-day extension is acknowledged. State agencies generally provide a 45-day public review period under CEQA. The public review period for a Draft EIR should be longer than 60 days only under unusual circumstances. Acknowledging the duration and complexity of this Project, CDFW elected to provide an initial 60-day comment period for the Draft EIS/EIR that later was extended to a total of 133 days. No further extension was granted. See Final EIR Section 1.4.1, <i>Agency and Public Review of the Draft EIS/EIR</i> .
107	Hamilton, Ben	2/4/2018	Receipt of your communication is acknowledged; however, no text was provided in the communication.
108	Haraczka, Rebekah	11/6/2017	Your preference for the Project is acknowledged.
109	Hardin, Joseph	11/8/2017	Your support for restoration is acknowledged.
110	Hardin, Mary	2/5/2018	Your opposition to new gas or wells is acknowledged.
111	Hawthorne, Anne	10/27/2017	Your request for extension to March 2018 is acknowledged; however, no further extension beyond the 133-day period established for this Project has been granted.
112	Hayden, Michael	11/27/2017	Your concerns regarding litter and homelessness near Ballona are acknowledged; however, this input about existing conditions does not reflect on the adequacy or accuracy of the EIR.
113	Heimbuch, Babbette	1/27/2018	Your opposition to the Project is acknowledged.



**TABLE 2-1 (Continued)**  
**RESPONSES TO NON-SUBSTANTIVE COMMENTS**

<b>Letter Number</b>	<b>Name (Alphabetical by last name)</b>	<b>Date of Comment</b>	<b>Input Received/Brief Responses</b>
114	Hernandez, Maria Elena	11/9/2017	Your support for restoration is acknowledged.
115	Herrera, Paul	1/6/2018	Your preference for the Project is acknowledged.
116	Hoang, Julie	1/5/2018	Your preference for the Project is acknowledged.
117	Hodgens, Roberto	12/5/2017	Your preference for the Project is acknowledged.
118	Hoffman, Cynthia	11/6/2017	Your preference for the Project is acknowledged.
119	Holliday, W. Ryan	1/12/2018	Your preference for the Project is acknowledged.
120	Isaacs, Jill	1/6/2018	Your preference for the Project is acknowledged.
121	Javier, Linda	11/7/2017	Your preference for the Project is acknowledged.
122	Jessup, Georgia	10/7/2017	Your support for restoration is acknowledged
123	Johnson, Kathy	10/29/2018	Your request for a 180-day extension is acknowledged. State agencies generally provide a 45-day public review period under CEQA. The public review period for a Draft EIR should be longer than 60 days only under unusual circumstances. Acknowledging the duration and complexity of this Project, CDFW elected to provide an initial 60-day comment period for the Draft EIS/EIR that later was extended to a total of 133 days. No further extension was granted. See Final EIR Section 1.4.1, <i>Agency and Public Review of the Draft EIS/EIR</i> .
124	Johnson, Mark	11/29/2017	Your support for restoration is acknowledged.
125	Johnson, Rebecca	1/5/2018	Your preference for the Project is acknowledged.
126	Jones, Linda	1/12/2018	Your support for restoration is acknowledged.
127	Jones, Richard	1/11/2018	Your support for restoration and public access is acknowledged.
128	Joseph, Mark	11/6/2017	Your support for restoration is acknowledged
129	Joseph, Mark	11/6/2017	Your support for restoration is acknowledged
130	Josephs, Zina	10/28/2017	Your request for extension to March 2018 is acknowledged; however, no further extension beyond the 133-day period established for this Project has been granted.
131	Josephs, Zina	10/28/2017	Your request for extension to March 2018 is acknowledged; however, no further extension beyond the 133-day period established for this Project has been granted.
132	Kaehler, Katrin	1/26/2018	Your preference for the Project and support for increased public access is acknowledged.
133	Kane, Elaine	1/18/2018	Your support for restoration is acknowledged.
134	Kasravi, Barsam	1/5/2018	Your preference for the Project is acknowledged.
135	Kay, Jacqueline	1/11/2018	Your support for restoration is acknowledged.
136	Kay, Lauren	1/11/2018	Your support for restoration is acknowledged.
137	Kay, Marla	1/10/2018	Your support for restoration is acknowledged.
138	Kedward, Jessica	11/6/2017	Your preference for the Project is acknowledged.



**TABLE 2-1 (Continued)**  
**RESPONSES TO NON-SUBSTANTIVE COMMENTS**

<b>Letter Number</b>	<b>Name (Alphabetical by last name)</b>	<b>Date of Comment</b>	<b>Input Received/Brief Responses</b>
139	Keever, Katherine	11/7/2017	Your support for restoration is acknowledged.
140	King, James	11/8/2017	Your support for restoration is acknowledged.
141	King, Sharon D.	10/23/2017	Your preference for manual, community based restoration is acknowledged. See Alternative 4 (Draft EIS/EIR Section 2.2.5).
142	Ko, Evelyn	1/12/2018	Your preference for the Project and support for increased public access is acknowledged.
143	Kretschmer, Suzanne	11/7/2017	Your preference for the Project is acknowledged.
144	Kuehn, Viktoria	11/9/2017	Your preference for the Project is acknowledged.
145	Kunin, Laura	1/13/2018	Your support for restoration and improved public access is acknowledged.
146	Lamothe, Rae	12/13/2017	Your preference for the Project is acknowledged.
147	Lampert, Greg	1/11/2018	Your preference for the Project and support for increased public access is acknowledged.
148	Lane, James R.	10/16/2017	Your request for a 120-day extension is acknowledged. State agencies generally provide a 45-day public review period under CEQA. The public review period for a Draft EIR should be longer than 60 days only under unusual circumstances. Acknowledging the duration and complexity of this Project, CDFW elected to provide an initial 60-day comment period for the Draft EIS/EIR that later was extended to a total of 133 days. No further extension was granted. See Final EIR Section 1.4.1, <i>Agency and Public Review of the Draft EIS/EIR</i> .
149	Laurie, Jeanne	10/9/2017	Your request for a 120-day extension is acknowledged. State agencies generally provide a 45-day public review period under CEQA. The public review period for a Draft EIR should be longer than 60 days only under unusual circumstances. Acknowledging the duration and complexity of this Project, CDFW elected to provide an initial 60-day comment period for the Draft EIS/EIR that later was extended to a total of 133 days. No further extension was granted. See Final EIR Section 1.4.1, <i>Agency and Public Review of the Draft EIS/EIR</i> .
150	Levin, Bonnie and Bob	2/4/2018	Your opposition to the Project is acknowledged.
151	Levy, Karen	1/12/2018	Your support for restoration is acknowledged.
152	Levy, Margaret	11/7/2017	Your support for restoration is acknowledged.
153	Lewis, Yolanda	10/7/2017	Your request for a 120-day extension is acknowledged. State agencies generally provide a 45-day public review period under CEQA. The public review period for a Draft EIR should be longer than 60 days only under unusual circumstances. Acknowledging the duration and complexity of this Project, CDFW elected to provide an initial 60-day comment period for the Draft EIS/EIR that later was extended to a total of 133 days. No further extension was granted. See Final EIR Section 1.4.1, <i>Agency and Public Review of the Draft EIS/EIR</i> .
154	Li, JinLiang	1/6/2018	Your preference for the Project is acknowledged.
155	Linker, Keith	11/30/2017	Your preference for the Project is acknowledged.
156	Long, Meghan	12/6/2017	Your preference for the Project is acknowledged.
157	Los Angeles Audubon Society	10/8/2017	Your request for a 120-135-day extension is acknowledged. State agencies generally provide a 45-day public review period under CEQA. The public review period for a Draft EIR should be longer than 60 days only under unusual circumstances. Acknowledging the duration and complexity of this Project, CDFW elected to provide an initial 60-day comment period for the Draft EIS/EIR that later was extended to a total of 133 days. No further extension was granted. See Final EIR Section 1.4.1, <i>Agency and Public Review of the Draft EIS/EIR</i> .



**TABLE 2-1 (Continued)**  
**RESPONSES TO NON-SUBSTANTIVE COMMENTS**

<b>Letter Number</b>	<b>Name (Alphabetical by last name)</b>	<b>Date of Comment</b>	<b>Input Received/Brief Responses</b>
158	Los Angeles Audubon Society	10/9/2017	Your request for a 120-135-day extension is acknowledged. State agencies generally provide a 45-day public review period under CEQA. The public review period for a Draft EIR should be longer than 60 days only under unusual circumstances. Acknowledging the duration and complexity of this Project, CDFW elected to provide an initial 60-day comment period for the Draft EIS/EIR that later was extended to a total of 133 days. No further extension was granted. See Final EIR Section 1.4.1, <i>Agency and Public Review of the Draft EIS/EIR</i> .
159	Lozano, Leticia	1/7/2018	Your preference for the Project is acknowledged.
160	Lubanksy, Donna	11/6/2017	Your preference for the Project is acknowledged.
161	Lundy, Albro, L	1/18/2018	Your preference for the Project is acknowledged.
162	Lux, Ted	1/26/2018	Your preference for the Project is acknowledged.
163	Lynch, Elizabeth	11/7/2017	Your support for restoration is acknowledged.
164	Lynd, Kevan	1/18/2018	Your preference for the Project is acknowledged.
165	MacBain, Don	1/12/2018	Your preference for the project and support for increased public access is acknowledged.
166	MacDougall, Randall	1/26/2018	Your preference for the Project and support for increased public access is acknowledged.
167	MacLellan, Douglas	1/12/2018	Your preference for the Project and support for increased public access is acknowledged.
168	MacLellan, Nora	1/12/2018	Your preference for the Project and support for increased public access is acknowledged.
169	Mandler, Jason	1/9/2018	Your preference for the Project is acknowledged.
170	Martinez, Mayra	11/8/2017	Your support for restoration is acknowledged.
171	Mayes, Jeff	1/6/2018	Your support for restoration is acknowledged.
172	McCabe, Susan	12/2/2017	Your preference for the Project is acknowledged.
173	McHenry, James	1/11/2018	Your preference for the Project and support for increased public access is acknowledged.
174	McIntosh, Todd	1/6/2018	Your preference for the Project is acknowledged.
175	McKinnon, Christopher	10/13/2017	Your preference for manual restoration is acknowledged. See Alternative 4 (Draft EIS/EIR Section 2.2.5).
176	McMahon, Tom	1/9/2018	Your request for replacement of the bike path and other road improvements is acknowledged.
177	McMahon, Tom	11/7/2017	Your support for restoration is acknowledged.
178	Meisenholder, David	1/18/2018	Your preference for the Project is acknowledged.
179	Meisenholder, Jana	1/10/2018	Your preference for the Project is acknowledged.
180	Metros, Susan	1/5/2018	Your preference for the Project is acknowledged.
181	Modglin, Wendy	2/5/2018	Your support for Alternatives 10 and 11 is acknowledged.
182	Mohazab, Sherry	9/28/2017	Your preference for the Project is acknowledged.
183	Mohazab, Sherry	1/6/2018	Your preference for the Project is acknowledged.



**TABLE 2-1 (Continued)**  
**RESPONSES TO NON-SUBSTANTIVE COMMENTS**

<b>Letter Number</b>	<b>Name (Alphabetical by last name)</b>	<b>Date of Comment</b>	<b>Input Received/Brief Responses</b>
184	Monastero, Jo Anne	2/5/2018	Your opposition to the Project is acknowledged.
185	Moore, Tim	1/11/2018	Your preference for the Project and support for increased public access is acknowledged.
186	Moosavi, Sally	1/5/2018	Your preference for the Project and support increased recreational access are acknowledged.
187	Morris, Jamie	1/6/2018	Your support for restoration is acknowledged.
188	Moylan, Bill	1/12/2018	Your preference for the Project and support for increased public access is acknowledged.
189	Mross, Nina	11/6/2017	Your preference for the Project is acknowledged.
190	Mullen, John	11/6/2017	Your support for restoration is acknowledged
191	Narvaez, Candace	11/11/2017	Your preference for the Project is acknowledged.
192	Nathan, Launi	11/6/2017	Your support for restoration is acknowledged
193	Nelson, Sue	10/7/2017	Your request for a 120-day extension is acknowledged. State agencies generally provide a 45-day public review period under CEQA. The public review period for a Draft EIR should be longer than 60 days only under unusual circumstances. Acknowledging the duration and complexity of this Project, CDFW elected to provide an initial 60-day comment period for the Draft EIS/EIR that later was extended to a total of 133 days. No further extension was granted. See Final EIR Section 1.4.1, <i>Agency and Public Review of the Draft EIS/EIR</i> .
194	Noury, Benjamin	11/7/2017	Your preference for the Project is acknowledged.
195	Obermeyer, Andrew	11/8/2017	Your support for restoration is acknowledged.
196	Ornstein, Ken	11/11/2017	Your support for restoration is acknowledged.
197	Palmieri, Steven	1/11/2018	Your support for restoration is acknowledged.
198	Parry, Asha	11/8/2017	Your preference for the Project is acknowledged.
199	Pass, Herman	11/11/2017	Your preference for either the Project or Alternative 2 is acknowledged.
200	Patterson, David	1/21/2018	Your preference for the Project and support for increased public access is acknowledged.
201	Pepper, Krista	9/27/2017	Your preference for the Project is acknowledged.
202	Perez-Perez, Katie	1/30/2018	Your support for restoration is acknowledged.
203	Perkey, Amanda	1/8/2018	Your preference for the Project is acknowledged.
204	Pryor, Sheila	11/7/2017	Your support for restoration is acknowledged.
205	Purcell, Gerry	11/9/2017	Your question regarding location of the public meeting is acknowledged. See Final EIR Section 1.4.1, <i>Agency and Public Review of the Draft EIS/EIR</i> .
206	Quain, Lauren Russell & Ken	10/19/2017	Your request for extension to March 2018 is acknowledged; however, no further extension beyond the 133-day period established for this Project has been granted.
207	Ragana, Lollie	11/6/2017	Your support for restoration is acknowledged.
208	Raitt, Alison	10/13/2017	Your support for restoration is acknowledged.



**TABLE 2-1 (Continued)**  
**RESPONSES TO NON-SUBSTANTIVE COMMENTS**

<b>Letter Number</b>	<b>Name (Alphabetical by last name)</b>	<b>Date of Comment</b>	<b>Input Received/Brief Responses</b>
209	Reedy, Martin	11/6/2017	Your preference for the Project is acknowledged.
210	Reingold, Irene	9/28/2017	Your preference for the Project is acknowledged.
211	Rennell, Ellen	2/2/2018	Your preference for manual restoration is acknowledged. See Alternative 4 (Draft EIS/EIR Section 2.2.5).
212	Reyman, Dan	10/8/2017	Your request for a 120-day extension is acknowledged. State agencies generally provide a 45-day public review period under CEQA. The public review period for a Draft EIR should be longer than 60 days only under unusual circumstances. Acknowledging the duration and complexity of this Project, CDFW elected to provide an initial 60-day comment period for the Draft EIS/EIR that later was extended to a total of 133 days. No further extension was granted. See Final EIR Section 1.4.1, <i>Agency and Public Review of the Draft EIS/EIR</i> .
213	Reznik, Brent	1/11/2018	Your preference for the Project is acknowledged.
214	Riedy, Chris	11/8/2017	Your support for restoration is acknowledged.
215	Robertson, Janet	1/13/2018	Your support for restoration is acknowledged.
216	Rochelle-Levy, Paulette	10/7/2017	Your request for a 120-day extension is acknowledged. State agencies generally provide a 45-day public review period under CEQA. The public review period for a Draft EIR should be longer than 60 days only under unusual circumstances. Acknowledging the duration and complexity of this Project, CDFW elected to provide an initial 60-day comment period for the Draft EIS/EIR that later was extended to a total of 133 days. No further extension was granted. See Final EIR Section 1.4.1, <i>Agency and Public Review of the Draft EIS/EIR</i> .
217	Rochelle-Levy, Paulette	10/8/2017	Your request for a 120-day extension is acknowledged. State agencies generally provide a 45-day public review period under CEQA. The public review period for a Draft EIR should be longer than 60 days only under unusual circumstances. Acknowledging the duration and complexity of this Project, CDFW elected to provide an initial 60-day comment period for the Draft EIS/EIR that later was extended to a total of 133 days. No further extension was granted. See Final EIR Section 1.4.1, <i>Agency and Public Review of the Draft EIS/EIR</i> .
218	Roth, Suzie	10/9/2017	Your request for a 120-day extension is acknowledged. State agencies generally provide a 45-day public review period under CEQA. The public review period for a Draft EIR should be longer than 60 days only under unusual circumstances. Acknowledging the duration and complexity of this Project, CDFW elected to provide an initial 60-day comment period for the Draft EIS/EIR that later was extended to a total of 133 days. No further extension was granted. See Final EIR Section 1.4.1, <i>Agency and Public Review of the Draft EIS/EIR</i> .
219	Roth, Suzie	10/10/2017	Your request for a 120-day extension is acknowledged. State agencies generally provide a 45-day public review period under CEQA. The public review period for a Draft EIR should be longer than 60 days only under unusual circumstances. Acknowledging the duration and complexity of this Project, CDFW elected to provide an initial 60-day comment period for the Draft EIS/EIR that later was extended to a total of 133 days. No further extension was granted. See Final EIR Section 1.4.1, <i>Agency and Public Review of the Draft EIS/EIR</i> .
220	Rubschlager, Carl	12/4/2017	Your support for restoration and associated environmental benefits is acknowledged.
221	Ryan, Wesley	11/8/2017	Your preference for the Project is acknowledged.
222	Saikin, Devora	11/6/2017	Your preference for the Project is acknowledged.
223	Sajbel, Michael	1/11/2018	Your preference for the Project and support for increased public access is acknowledged.
224	Salvo, Paul	10/11/2017	Your request for extension to March 2018 is acknowledged; however, no further extension beyond the 133-day period established for this Project has been granted.
225	Sampson, Joni	1/26/2018	Your preference for the Project and support for increased public access is acknowledged.



**TABLE 2-1 (Continued)**  
**RESPONSES TO NON-SUBSTANTIVE COMMENTS**

Letter Number	Name (Alphabetical by last name)	Date of Comment	Input Received/Brief Responses
226	Sandbank, Lisa	10/8/2017	Your request for a 120-day extension is acknowledged. State agencies generally provide a 45-day public review period under CEQA. The public review period for a Draft EIR should be longer than 60 days only under unusual circumstances. Acknowledging the duration and complexity of this Project, CDFW elected to provide an initial 60-day comment period for the Draft EIS/EIR that later was extended to a total of 133 days. No further extension was granted. See Final EIR Section 1.4.1, <i>Agency and Public Review of the Draft EIS/EIR</i> .
227	Schulman, Toni	2/4/2018	Your opposition to the Project is acknowledged.
228	Schwartz, Michael	1/11/2018	Your support for restoration is acknowledged.
229	Schwartz, Valerie	1/27/2018	Your opposition to the Project and support for Alternatives 10 and 11 are acknowledged.
230	Schwartz, Valerie	2/1/2018	Your support for Alternative 11 is acknowledged.
231	Scott, Nicholas	2/5/2018	Your support for Alternatives 10 and 11 is acknowledged.
232	Scott, Sheila	2/4/2018	Your opposition to new wells and drilling is acknowledged.
233	Siegal, David	1/6/2018	Your preference for the Project is acknowledged.
234	Siegal, Sara	1/8/2018	Your preference for the Project and support increased recreational access are acknowledged.
235	Slattery, Anne	1/5/2018	Your preference for the Project and support for increased public access is acknowledged.
236	Snyder, Robert	11/6/2017	Your preference for the Project is acknowledged.
237	Soelter, Undine	2/5/2018	Your opposition to Alternative 1 and support for Alternatives 10 and 11 are acknowledged.
238	Spry, Chris	1/5/2018	Your support for restoration is acknowledged.
239	Stone, Ava	1/5/2018	Your preference for the Project is acknowledged.
240	Sullivan, Peter	2/5/2018	Your support for Alternatives 10 and 11 is acknowledged.
241	Suter, Rebecca	1/26/2018	Your preference for the Project and support for increased public access is acknowledged.
242	Talerico, Tricia	1/12/2018	Your preference for the Project and support for increased public access is acknowledged.
243	Tang, Joanna	11/8/2017	Your academic interest in the Project is acknowledged.
244	Terrell, Lola	2/5/2018	Your opposition to "wholesale restoration" is acknowledged.
245	Test, Lisa	10/8/2017	Your request for a 120-day extension is acknowledged. State agencies generally provide a 45-day public review period under CEQA. The public review period for a Draft EIR should be longer than 60 days only under unusual circumstances. Acknowledging the duration and complexity of this Project, CDFW elected to provide an initial 60-day comment period for the Draft EIS/EIR that later was extended to a total of 133 days. No further extension was granted. See Final EIR Section 1.4.1, <i>Agency and Public Review of the Draft EIS/EIR</i> .
246	Test, Lisa	10/10/2017	Your request for a 120-day extension is acknowledged. State agencies generally provide a 45-day public review period under CEQA. The public review period for a Draft EIR should be longer than 60 days only under unusual circumstances. Acknowledging the duration and complexity of this Project, CDFW elected to provide an initial 60-day comment period for the Draft EIS/EIR that later was extended to a total of 133 days. No further extension was granted. See Final EIR Section 1.4.1, <i>Agency and Public Review of the Draft EIS/EIR</i> .
247	Thayer, Donna and Brown, Matthew	1/6/2018	Your preference for the Project is acknowledged.



**TABLE 2-1 (Continued)**  
**RESPONSES TO NON-SUBSTANTIVE COMMENTS**

<b>Letter Number</b>	<b>Name (Alphabetical by last name)</b>	<b>Date of Comment</b>	<b>Input Received/Brief Responses</b>
248	Trout, Larry	2/1/2018	Your opposition to the Project and support for Alternatives 10 and 11 are acknowledged.
249	Troy, David	2/5/2018	Your preference for Alternative 4, the No Action/No Project Alternative, is acknowledged.
250	Tyler, Marianne	10/16/2017	Your request for a 180-day extension is acknowledged. State agencies generally provide a 45-day public review period under CEQA. The public review period for a Draft EIR should be longer than 60 days only under unusual circumstances. Acknowledging the duration and complexity of this Project, CDFW elected to provide an initial 60-day comment period for the Draft EIS/EIR that later was extended to a total of 133 days. No further extension was granted. See Final EIR Section 1.4.1, <i>Agency and Public Review of the Draft EIS/EIR</i> .
251	Tyler, Marianne	12/14/2018	Your request for an extension of the comment period is acknowledged. No further extension beyond the 133-day period established for this Project has been granted.
252	Vaden-Youmans, Aaron	1/22/2018	Your preference for the Project and support for increased public access is acknowledged.
253	Vaghini, Robert	11/8/2017	Your opposition to the Project and request for a 180-day extension are acknowledged. State agencies generally provide a 45-day public review period under CEQA. The public review period for a Draft EIR should be longer than 60 days only under unusual circumstances. Acknowledging the duration and complexity of this Project, CDFW elected to provide an initial 60-day comment period for the Draft EIS/EIR that later was extended to a total of 133 days. No further extension was granted. See Final EIR Section 1.4.1, <i>Agency and Public Review of the Draft EIS/EIR</i> .
254	Villa Marina Council	10/27/2018	Your request for a 120-day extension is acknowledged. State agencies generally provide a 45-day public review period under CEQA. The public review period for a Draft EIR should be longer than 60 days only under unusual circumstances. Acknowledging the duration and complexity of this Project, CDFW elected to provide an initial 60-day comment period for the Draft EIS/EIR that later was extended to a total of 133 days. No further extension was granted. See Final EIR Section 1.4.1, <i>Agency and Public Review of the Draft EIS/EIR</i> .
255	Villa Marina Sustainability Committee	10/25/2018	Your request for a 120-day extension is acknowledged. State agencies generally provide a 45-day public review period under CEQA. The public review period for a Draft EIR should be longer than 60 days only under unusual circumstances. Acknowledging the duration and complexity of this Project, CDFW elected to provide an initial 60-day comment period for the Draft EIS/EIR that later was extended to a total of 133 days. No further extension was granted. See Final EIR Section 1.4.1, <i>Agency and Public Review of the Draft EIS/EIR</i> .
256	Villanova, Carolyn	11/6/2017	Your support for restoration is acknowledged.
257	Vinetz, Tom	1/12/2018	Your support for restoration is acknowledged.
258	Vogelsang, Brian	1/5/2018	Your preference for the Project is acknowledged.
259	Vosburg, Jeanette	2/4/2018	Your appreciation is acknowledged.
260	Waggoner, Jason	1/9/2018	Your preference for the Project is acknowledged.
261	Wall, Daisy	1/14/2018	Your preference for the Project and support for increased public access is acknowledged.
262	Wang, Thea	11/6/2017	Your preference for the Project is acknowledged.
263	Waters, Jerry O.	1/11/2018	Your preference for the Project and support for increased public access is acknowledged.
264	Watson, Nancy	10/1/2017	Your preference for the Project is acknowledged.
265	Waxman, Stephanie	2/2/2018	Your preference for the completion of restoration without adversely impacting existing habitat is acknowledged.
266	Weber, Laure	11/6/2017	Your preference for the Project is acknowledged.
267	Weiderman, Emilie	12/13/2017	Your support for restoration is acknowledged.





**TABLE 2-1 (Continued)**  
**RESPONSES TO NON-SUBSTANTIVE COMMENTS**

Letter Number	Name (Alphabetical by last name)	Date of Comment	Input Received/Brief Responses
268	Wessel, Neil	10/17/2017	Your request for a 120-day extension is acknowledged. State agencies generally provide a 45-day public review period under CEQA. The public review period for a Draft EIR should be longer than 60 days only under unusual circumstances. Acknowledging the duration and complexity of this Project, CDFW elected to provide an initial 60-day comment period for the Draft EIS/EIR that later was extended to a total of 133 days. No further extension was granted. See Final EIR Section 1.4.1, <i>Agency and Public Review of the Draft EIS/EIR</i> .
269	West, Matt	1/15/2018	Your preference for the Project is acknowledged.
270	Wiles, Jim	1/14/2018	Your preference for the Project and support for increased public access is acknowledged.
271	William, B.	11/5/2017	Your preference for the Project is acknowledged.
272	Williams, Doug	11/6/2017	Your preference for the Project is acknowledged.
273	Wilson, Donna	2/5/2018	Your support for Alternatives 10 and 11 is acknowledged.
274	Wind, Matt	1/12/2018	Your preference for the Project and support for increased public access is acknowledged.
275	Yazdany, Elizabeth	1/5/2018	Your preference for the Project is acknowledged.
276	Yee, Kenneth and Pat	1/31/2018	Your preference for the Project and support for increased public access is acknowledged.
277	Yokelson, David	10/7/2017	Your request for a 120-day extension is acknowledged. State agencies generally provide a 45-day public review period under CEQA. The public review period for a Draft EIR should be longer than 60 days only under unusual circumstances. Acknowledging the duration and complexity of this Project, CDFW elected to provide an initial 60-day comment period for the Draft EIS/EIR that later was extended to a total of 133 days. No further extension was granted. See Final EIR Section 1.4.1, <i>Agency and Public Review of the Draft EIS/EIR</i> .
278	Young, Patrick	1/26/2018	Your preference for the Project is acknowledged.
279	Zebold, Lee	2/5/2018	Your opposition to the Project and support for Alternatives 10 and 11 are acknowledged.
280	Zifkin, Courtney	1/27/2018	Your preference for the Project and support for increased public access is acknowledged.
281	Zimmerman, Helene	11/6/2017	Your support for restoration is acknowledged.



## 2.1.2 Comment Coding

Comment letters are organized with public agency letters first, followed by form letter comments and comments received from organizations and individuals. Within each grouping, letters are further organized chronologically by date and, within dates, alphabetically by last name. Where multiple letters were received from a single commenter, the letters are grouped such that all of the comments from and responses to that commenter are provided together as of the date of the first communication.

Each comment letter has been assigned a corresponding alphabet letter designation, as well as a unique number designating order of receipt. Letters from federal agencies are designated with a capital “AF,” letters from State agencies are designated with a capital “AS,” and letters from local agencies are designated “AL.” Form letters are designated with a capital “F,” letters from organizations are designated “O,” and letters from individuals are designated “I.” For example, the first letter received from a federal agency was from the Department of Interior’s Office of Environmental Policy and Compliance on February 2, 2018. It is identified as letter AF1. Individual comments within letters are marked sequentially with numbers, such as AF1-1, AF1-2, etc.

## 2.2 General Responses

This section provides comprehensive responses (“General Responses”) to issues or sets of interrelated issues raised by multiple commenters, so that all aspects of the issue can be addressed in a coordinated, organized manner in one location. Where appropriate, responses to individual comments on these topics are directed to the general responses. For example, if a comment addresses the alternatives analysis addressed by a general response, the individual response will include the statement, “See General Response 3.” A general response is provided for the following topics:

1. **General Response 1, *Agency Involvement*.** This response addresses comments relating to: permitting, responsible, and trustee agencies; agency consultation and coordination; the Corps feasibility study; and suggestions of conflict of interest. See Section 2.2.1.
2. **General Response 2, *Proposed Project*.** This response addresses comments relating to: the ball fields, SoCalGas Facilities in the Ballona Reserve, parking, public access, and definitions of restoration. See Section 2.2.2.
3. **General Response 3, *Alternatives*.** This response addresses comments relating to: the purpose and need and project objectives, the range of alternatives, alternatives not analyzed in detail (including requests for a freshwater alternative), the Least Environmentally Damaging Practicable Alternative (LEDPA), and the Environmentally Superior Alternative for purposes of CEQA. See Section 2.2.3.
4. **General Response 4, *Drains*.** This response addresses comments relating to the two drains within the Ballona Reserve that the California Coastal Commission determined to be subject to removal in proceedings before the Commission. See Section 2.2.4.
5. **General Response 5, *Biological Resources*.** This response addresses comments relating to: baseline conditions, habitat, vegetation, and wildlife. See Section 2.2.5.

6. **General Response 6, *Hydrology and Water Quality*.** This response addresses comments relating to: the adequacy of data relied upon, TMDLs, groundwater quality, sea-level rise, flood risk, and the Freshwater Marsh. See Section 2.2.6.
7. **General Response 7, *Requests for Recirculation*.** This response addresses comments requesting that the Draft EIS/EIR be recirculated for additional public review. See Section 2.2.7.
8. **General Response 8, *Public Participation*.** This response addresses comments relating to the public comment period for the Draft EIS/EIR. See Section 2.2.8.

## 2.2.1 General Response 1: Agency and Other Involvement

### 2.2.1.1 Suggestions of Improper Influence or Conflict of Interest

Multiple comments inaccurately suggest that there is some sort of conflict of interest or improper influence between or among CDFW, Playa Capital LLC (developer of neighboring Playa Vista), Ballona Wetlands Conservancy, Coastal Conservancy, Santa Monica Bay Foundation, consulting companies, and various individuals employed by those entities. However, none of the comments identifies the underlying rationale as to why the alleged activities give rise to a conflict of interest or undue influence. Accordingly, CDFW considered these comments from the viewpoint of California State law's treatment of conflicts of interest. The most basic prohibition of the Political Reform Act (Government Code §81000 et seq.) is that public officials are disqualified from participating in government decisions in which they have a financial interest (Government Code §87100).<sup>1</sup> Stated differently, the Act deals with situations in which a public decision will have an effect on a public official's financial interests.

In support of the assertions of impropriety are a variety of communications to and between the entities and other documents mentioned. Having reviewed the information provided currently and with correspondence dating back several years, it appears that in none of the circumstances suggested in comments received on the Draft EIS/EIR does any decision maker at CDFW, or any other entity, appear to gain financially from implementation of the Project or Alternative 2 or 3. As a result, these comments do not appear to show that the amount and quality of information in the EIR is inadequate or inaccurate. Nor do the comments identify any potentially significant environmental issues arising from implementation of the Project or alternatives that have not been addressed in the EIR.

#### ***Playa Capital LLC/Brookstone***

Multiple comments inaccurately suggest that Playa Capital LLC/Brookstone, the developers of the Playa Vista development, have improperly influenced CDFW's consideration of the Project through Playa Capital LLC/Brookstone's relationship with CDFW. The basic premise of the comments seems to be that Playa Capital exerts undue influence over CDFW, which resulted in the Draft EIS/EIR's inclusion of the Project and Alternatives 2 and 3, which all involve returning the daily ebb and flow of tidal waters to achieve predominantly estuarine conditions within the

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<sup>1</sup> See also California Attorney General's Office, 2010. Conflicts of Interest. Available online: <https://oag.ca.gov/sites/all/files/agweb/pdfs/publications/coi.pdf>.



Ballona Reserve. Although CDFW considered and rejected alternatives that would not increase tidal circulation (see EIS/EIR Section 2.3), the commenters' perspective appears unaffected.

For example, one of the comments asserts that undue influence is evidenced by some sort of benefit that Playa Capital would receive from implementation of Alternative 1, 2, or 3, including the benefits of the flood control elements of Alternatives 1, 2, and 3. However, the proposal is a restoration project, not a flood control project. As explained in Draft EIS/EIR Section ES.3 and Section 1.1.2, CDFW's project objective relating to flood control is that authorized LACDA project levels of flood risk management be maintained, not that they be changed relative to the existing condition. It is not clear to CDFW, and the comments do not explain, how maintaining an existing flood risk management level unchanged from existing conditions provides a financial benefit to Playa Capital or to any other neighboring property owner or manager. See also General Response 3, *Alternatives* (Section 2.2.3), which details how the alternatives were developed based on CDFW's project objectives. At no time did Playa Capital convince CDFW to take any certain approach.

Related comments suggest that a conflict of interest or undue influence exists with respect to Playa Capital because of the consultants who have worked on Playa Vista, including the engineering consulting firms Psomas and Philip Williams & Associates, Ltd. (PWA) (each of whom worked on the Draft EIS/EIR), and CDM Smith and Diaz Yourman (each of whom has not been at all involved in the EIR process).

Comments accurately note that Psomas provided permitting and civil engineering support for the Playa Vista development (Psomas, 2018<sup>2</sup>). As stated in Draft EIS/EIR Sections 5.2 and 5.3, four primary consultants and five sub-consultants worked on the Draft EIS/EIR. Psomas is one of the five sub-consultants. Environmental Science Associates (ESA), one of the four primary consultants on the Draft EIS/EIR, acquired PWA in 2010 – prior to CDFW's August 2012 initiation of the environmental review process for the proposed restoration. PWA has, as noted in comments, worked in the immediate area around the Ballona Reserve. For example, PWA supported the Corps' effort with respect to the 2005–2012 feasibility study (see Section 2.2.1.2 regarding the role of the 2005 feasibility study in the NEPA process). PWA also supported USEPA Region IX's development of the Ballona Creek Wetlands Total Maximum Daily Loads for Sediment and Invasive Exotic Vegetation (USEPA Region IX, 2012,<sup>3</sup> citing PWA work from 2006, 2008, 2010, and 2011 relating to sediment, hydrological conditions, and wetland types).

None of the comments provides any evidence of a conflict of interest that would prevent either Psomas or PWA from contributing to an independent, science-based analysis of potential impacts of the proposed restoration, or that false or misleading information has been provided. The EIR represents the expertise and independent judgement of CDFW as the CEQA Lead Agency for the Project. Even if working on the Draft EIS/EIR as well as for Playa Capital on

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<sup>2</sup> PSOMAS, 2018. Site Development Civil Engineering. Playa Vista 1,087-Acre Master-Planned Community | Los Angeles, CA. Available online: <https://psomas.com/services/playa-vista-master-planned-community/>. Accessed November 5, 2019.

<sup>3</sup> USEPA Region IX, 2012. Ballona Creek Wetlands Total Maximum Daily Loads for Sediment and Invasive Exotic Vegetation. March 26, 2012. Available online: [https://www.waterboards.ca.gov/rwqcb4/water\\_issues/programs/tmdl/Established/Ballona/BallonaCreekWetlandsTMDL-final.pdf](https://www.waterboards.ca.gov/rwqcb4/water_issues/programs/tmdl/Established/Ballona/BallonaCreekWetlandsTMDL-final.pdf). Accessed November 5, 2018.

property neighboring the Ballona Reserve could hint at some sort of conflict or undue influence, the mere fact that Psomas and ESA are only two of nine consultants should arguably minimize any concern. Additionally, hiring a consultant that has a wealth of history and institutional knowledge about the technical aspects of the property (which has proven to be extremely helpful to the process) is arguably an efficient use of public funds. CDFW recognizes that all the consultants are compensated for their work; however, a decision to include Alternatives 1, 2, and 3 in the EIR does not appear to affect the financial interest of those consultants in a manner different from including some other alternative. Moreover, it was CDFW's decision (via the screening process described in Draft EIS/EIR Section 2.3) regarding which of the potential alternatives to analyze in detail. See also General Response 3 (Section 6.4.3) describing how CDFW arrived at the list of alternatives.

Whether or not CDM Smith or Diaz Yourman provided engineering or construction support for the Playa Vista development has no bearing on the adequacy or accuracy of the EIR because neither of these firms has provided any input into the EIR for this Project.

### ***The Corps' 2005 Feasibility Study***

Some commenters seem to argue that the Corps' 2005 feasibility study process noticed in 2005 (70 Fed. Reg. 55116) involved a project different from Alternative 1, 2, or 3, and that the 2005 process was stopped to switch the project. However, these commenters fail to mention that the Corps feasibility study addressed a larger area than the Ballona Reserve, land that CDFW does not own and as a result cannot implement a project on. These commenters also fail to mention that the Corps' 2005 feasibility study could have included an evaluation of project elements that are similar to what appears in Alternatives 1, 2, and 3; specifically removing impervious surface from the Ballona Channel, regrading and removal of fill, removal of invasive and non-native plant sources, and reintroduction of water sources to restore previously filled coastal wetlands. Even if the Alternatives analyzed in the EIR were different from the 2005 process's scope, that fact does not reveal any decision maker receiving a personal financial benefit. As a result, CDFW is unable to discern why the 2005 Corps feasibility study process would be suggestive of a conflict of interest or undue influence. For additional response, see Section 2.2.1.2, *The Corps' 2005 Ballona Creek Ecosystem Restoration Feasibility Study*.

### ***The Santa Monica Bay Restoration Commission and Authority***

Also regarding the 2005 Corps feasibility study process, some commenters seem to question why the Santa Monica Bay Restoration Authority (SMBRA) canceled its efforts with the Corps regarding the 2005 feasibility process and suggest that this cancellation is evidence of a conflict. In fact, SMBRA wrote in a letter to the Corps that SMBRA did not have funds available for the 2005 feasibility process's costs increase.<sup>4</sup>

Some comments suggest that Ms. Shelly Luce's participation with the Monica Bay Restoration Commission and/or Authority somehow indicates undue influence or a conflict of interest. Because these comments do not explain the rationale for the allegation of impropriety as it

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<sup>4</sup> Bay Restoration Commission, 2012. Letter of Dr. Shelly Luce to Colonel R. Mark Toy. July 17, 2012.



relates to the preparation of the Draft EIS/EIR or CDFW's decision-making process, CDFW does not have enough information to provide a more detailed response in this regard.

Further, regarding the 2005 Corps feasibility study process, some comments seem to suggest that Mary Small of the Coastal Conservancy, who also has a board position on the Santa Monica Bay Restoration Commission (SMBRC), improperly influenced the 2005 Corps feasibility study process. Other than the existence of a relationship between the Coastal Conservancy and SMBRC, CDFW could not identify any clear evidence that the Coastal Conservancy had some sort of role related to the decision. It is also worth noting that the Coastal Conservancy is only one of 27 voting members that is part of the SMBRC Governing Board and that Board is comprised of a variety of local and state entities as well as some private individuals.<sup>5</sup> Therefore, even if the Coastal Conservancy wished to pursue a certain course of action through the SMBRC, CDFW believes the Coastal Conservancy would need to secure at least a majority of the other 26 voting members on the Board. In addition, there is no apparent financial benefit to any decision maker that CDFW could identify.

### ***Ballona Wetlands Conservancy***

Some comments point to the fact that CDFW holds a board position on the Ballona Wetlands Conservancy (BWC), the entity responsible for overseeing management of the Freshwater Marsh, as evidence of a conflict of interest or undue influence.

The BWC was created to oversee management of the freshwater marsh and riparian corridor, which are outside of the Project Site and were constructed in relation to the Playa Vista development which is also outside of Project Site. BWC's board of directors meets approximately once a year and is comprised of four members who are appointed by Playa Capital, the Friends of Ballona Wetlands, the Secretary of the Resources Agency, and a Council District Office for the City of Los Angeles. Funding for BWC comes from property owners and leaseholders in Playa Vista. Regarding the seat appointed by the Secretary of Resources, this board position has historically been filled by a CDFW employee. Mr. Brody was directed to serve, following other CDFW employees, on this board as an authorized CDFW representative from 2014 to 2016, then was replaced by other CDFW representatives who currently serve. It is unclear how the fact that CDFW holds a board position results in a conflict of interest or undue influence.

Some comments point to the fact that CDFW issued BWC a notice of violation of the Fish and Game Code to support the position there is a conflict or undue influence. However, CDFW believe this fact shows the opposite. Specifically, CDFW is willing to issue a notice of violation to an entity even if that entity has a CDFW employee as a board member.

In summary, for the reasons discussed above, CDFW believes that none of the comments received provide evidence of any conflict of interest or undue influence, and that none of the

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<sup>5</sup> Bay Restoration Commission, 2018. Santa Monica Bay Restoration Commission Governing Board Members (as of July 2018), July 2018.

comments making such allegations raises any sort of significant environmental issue related to implementation of the Project or Alternative 2 or 3.

### **2.2.1.2 The Corps' 2005 Ballona Creek Ecosystem Restoration Feasibility Study**

Several comments expressed some confusion about how the Corps' 2005 feasibility study relates to the NEPA process. Comments relating to the NEPA process will be addressed by the Corps in the Final EIS and are beyond the scope of this EIR. Nonetheless, CDFW is providing this response from the State's perspective for informational purposes.

The Corps published a notice in the *Federal Register* on September 20, 2005, stating its intention to initiate environmental analysis of the Ballona Creek Ecosystem Restoration Feasibility Study (70 Fed. Reg. 55116–55117). As stated in the Corps' NOI, "The purpose of the feasibility study is to evaluate alternatives for channel modification, habitat restoration (coastal and freshwater wetlands and riparian), recreation, and related purposes along the lower reach of the Ballona Creek" (70 Fed. Reg. 55116). The Corps described its 2005 feasibility study as "a Civil Works cost-shared project."<sup>6</sup> Between 2005 and January 2012, the agencies and their consultants investigated and documented baseline conditions in the designated project area. However, in July 2012, SMBRC requested that the Corps terminate the study. In response to this request, the Corps withdrew its NOI on September 26, 2012 (77 Fed. Reg. 59180).

The Corps' 2005 feasibility study is separate from and independent of the Project because the who, what, when, and where of the proposals differ. That the "why" of the projects are similar makes sense given the overlap in project areas and degraded environmental condition of the Ballona Reserve, but is not enough to conflate the two efforts into a single project for purposes of CEQA. The Corps and the Santa Monica Bay Restoration Commission (SMBRC), which proposed to share the costs of the study, were the project sponsors of the 2005 effort. By contrast, the Corps is not a sponsor of the Project and the SMBRC is neither a CEQA lead agency, nor a permit applicant or project proponent for the current effort (see Draft EIS/EIR Section ES.5). The current effort has not been described anywhere as a civil works cost-shared project – it is first and foremost a restoration project, the implementation of which would maintain existing, authorized LACDA project levels of flood risk management. Regarding timing, the SMBRC requested termination of the 2005 feasibility study before formal consideration of this EIR process began (77 Fed. Reg. 59180). Further, the project area included in the 2005 feasibility study boundary is larger than the Project Site analyzed in the EIR.

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<sup>6</sup> U.S. Army Corps of Engineers, 2012b. Corps initiates new Environmental Impact Study for Ballona Wetlands restoration. Available online: <https://www.spl.usace.army.mil/Media/News-Releases/Article/477303/corps-initiates-new-environmental-impact-study-for-ballona-wetlands-restoration/>. September 26, 2012.



## 2.2.2 General Response 2: Proposed Project

### 2.2.2.1 What is the NEPA Proposed Action?

There appeared to be some confusion in comments received on the Draft EIS/EIR regarding the NEPA term “Proposed Action.” Comments relating to the NEPA process will be addressed by the Corps in the Final EIS and are beyond the scope of this EIR. Nonetheless, CDFW is providing this response from the State’s perspective for informational purposes.

NEPA requires federal agencies, including the Corps, to consider the potential environmental impacts of their proposed actions and any reasonable alternatives before undertaking a major federal action. As defined in the CEQ regulations (40 CFR 1508.18(a)), actions include “new and continuing activities, including projects and programs entirely or partly financed, assisted, conducted, regulated, or approved by federal agencies.” “Action” expressly includes “[a]pproval of specific projects, such as construction or management activities located in a defined geographic area. Projects include actions approved by permit or other regulatory decision as well as federal and federally assisted activities” (40 CFR 1508.18(b)(4)). The “proposed action” for the Ballona Wetlands Restoration Project is the specific proposal described in permit applications submitted to the Corps, i.e., Alternative 1 as described in applications for permits under Section 404, Section 10, and Section 408. See Draft EIS/EIR Section 1.6.1, which described the Corps’ use of the EIS, and Draft EIS/EIR Sections 1.2.2 and 1.5.1, and footnotes 11 and 13, which consistently identify the Proposed Action as Alternative 1.

### 2.2.2.2 What is the CEQA Proposed Project?

Use of the word Project with a capital “P” means restoration of the Ballona Reserve and incidental work necessitated by the restoration activities as described in permit applications submitted to the Corps (i.e., Alternative 1: Full Tidal Restoration/Proposed Action). As explained in Draft EIS/EIR Section 1.2.2:

*CDFW proposes a large-scale restoration of the Ballona Reserve that would entail restoring, enhancing, and establishing native coastal wetland and upland habitats within the Ballona Reserve. CDFW applied for authorization from the Corps to discharge dredged or fill material into water of the U.S. pursuant to section 404 of the Clean Water Act (33 U.S.C. §1344; ‘Section 404’) and for work or structures in or affecting navigable waters of the U.S. under Section 10. To implement the proposal, CDFW is working with Los Angeles County to modify LACDA project features (Ballona Creek channel and levee system). LACFCD submitted a request pursuant to section 14 of the Rivers and Harbors Act (33 U.S.C. §408; ‘Section 408’) to alter or modify LACDA project features.*

This is consistent with use of the term Project in the NOP (see Draft EIS/EIR Appendix A) and the Biological Assessment (BA) submitted by the Corps to the U.S. Fish and Wildlife Service for the Proposed Action (Draft EIS/EIR Appendix D17).





The Draft EIS/EIR's use of the capitalized term Project to refer to restoration via any of the three restoration alternatives is also explained in paragraph 4 of the introduction to the Draft EIS/EIR Executive Summary, which has been revised as follows:

*For purposes of this ~~EIS/EIR~~, the term Project with a capital "P" means restoration of the Ballona Reserve and incidental work necessitated by the proposed restoration activities as presented in CDFW's application for authorization from the Corps (i.e., Alternative 1). Use of the term "Project" does not in any way indicate or imply ~~the Corps'~~ endorsement of the Project. Three different options for ~~implementing the Project (i.e., restoring the Ballona Reserve)~~ are analyzed in this the Draft EIS/EIR and this Final EIR: Alternative 1: Full Tidal Restoration/Proposed Action, Alternative 2: Restored Partial Sinuous Creek, and Alternative 3: Levee Culverts and Oxbow. Under Alternative 4: No Federal Action/No Project, none of the proposed restoration activities would occur. Although ~~this the Draft EIS/EIR~~ refers-referred to Alternative 1 as the "Proposed Action" for purposes of NEPA, use of this term ~~does-did~~ not in any way indicate the lead agencies' preference for Alternative 1. As an informational document, neither an EIS nor an EIR does-not-recommends approval or denial of any specific alternative. This ~~EIS/EIR~~ will be used to inform State and local agency decision makers and the public about the environmental consequences of each of the alternatives analyzed in accordance with CEQA.*

Recognizing that the three restoration alternatives were similar, CDFW presented an overview of common features among Alternatives 1 through 3, which are the underlying features of the Project (see Draft EIS/EIR Section 2.2.1, *Overview of Common Project Features*). CDFW then expanded on specific details for each alternative in Draft EIS/EIR Sections 2.2.2 through 2.2.4 to help the reader understand the differences between the three different restoration alternatives. Additionally, the order in which the alternatives are presented and analyzed in the EIR present the reader with the range of impacts from most earth-moving and restoration (i.e., Alternative 1) to the least amount of earth-moving and restoration (Alternative 3), along with something in between (i.e., Alternative 2). A review of Draft EIS/EIR Figure 2-1, Alternative 1, Phase 2: Proposed Habitats; Figure 2-43, Alternative 2: Proposed Habitats; and Figure 2-52, Alternative 3: Proposed Habitats, provides a visual illustration of the aforementioned approach to presenting the most restoration, the middle ground, and the least.

### 2.2.2.3 SoCalGas Company Facilities

Comments received regarding the SoCalGas Company wells seem to reflect an overall confusion about what the Project and other restoration alternatives propose (and do not propose) to do with respect to the SoCalGas Company infrastructure within the Project Site, what potential impacts might occur, and how much the relocation of gas-related infrastructure would be funded. None of the comments about the SoCalGas Company infrastructure shows that the amount and quality of information in the EIR leads to an inadequate or inaccurate analysis, and none identifies any new significant or any more severe environmental issue arising from the proposed restoration than has been presented in the Draft EIS/EIR.



### ***Existing SoCalGas Company infrastructure within the Project Site***

As discussed in Draft EIS/EIR Section 1.2.1, *Location of the Project Site*, “SoCalGas owns in fee, occupies, and operates the Playa del Rey Storage Facility, which is a natural gas storage system located at 8141 Gulana Avenue, Los Angeles (SoCalGas, 2008). The storage field enables SoCalGas to store natural gas when demand is low and withdraw natural gas for delivery when demand is high. Natural gas is stored within a depleted oil reservoir at a depth of approximately 6,100 feet below ground surface. The surface operations include the injection and extraction of natural gas, using monitoring wells and associated pipelines within the Ballona Reserve and on SoCalGas’s property located adjacent to and south of Area B.”

Draft EIS/EIR Figure ES-2, Project Site, shows the location of the SoCal Gas properties adjacent to the Ballona Reserve. The locations of existing wells are shown as black dots in the preliminary grading plans and the perimeter levees plans for the Project and Alternatives 2 and 3. See Draft EIS/EIR Figures 2-2, 2-5, 2-6, 2-13, 2-44, 2-46, and 2-53. Ongoing operation and maintenance activities implemented under current (baseline) conditions by the SoCalGas Company are described in the Preliminary Operations and Maintenance Plan included in Draft EIS/EIR Appendix B5. Photographs of SoCalGas Company infrastructure were provided in comments received.

Multiple commenters suggest that the Draft EIS/EIR does not sufficiently gather existing (baseline) information about the SoCalGas wells, offer additional information about existing conditions, and suggest that CDFW conduct a variety of additional inquiries or studies about existing conditions related to underground gas. Letter O11, for example, provides extensive text about specific risks and issues associated with the gas storage wells, including information about the University City Syndicate well, Proposition 65 chemicals, increased outgassing from wells, a lack of oversight of the wells, impacts of gas leakage on surrounding water bodies, and the risk of gas migration. Comments in other letters note that leaks have been identified during routine surface monitoring of the wells. This is consistent with information disclosed in the Draft EIS/EIR. Section 3.8.2.2, for example, reports that gases (both naturally occurring in shallow deposits and found deeper in the earth from buried organic material) were detected in a Project-area survey in 2000, but that a second phase of evaluation conducted in 2001 concluded that storage gases were not present in any of the methane anomalies observed east of Lincoln Boulevard. The section further disclosed that routine surface monitoring of SoCalGas Company wells found storage gases were reaching the surface through casing leaks and along the well casings in three wells. The SoCalGas Company’s routine monitoring will continue to occur regardless of whether any of the alternative analyzed in the EIR proceeds.

CDFW acknowledges this information about existing conditions, and that existing conditions are not in any way attributable to the Project or any of the restoration alternatives. Ongoing environmental conditions resulting from any existing “leaks” or “problems” are part of the existing (baseline) condition and do not reflect on the adequacy of the analysis of impacts of the proposed restoration. As discussed below, the EIR analyzes the potential direct, indirect and cumulative impacts of each of the restoration alternatives. This additional information about existing conditions is not new (see, e.g., Draft EIS/EIR Section 3.8.2, *Affected Environment*), and does not change the analysis or conclusions in the Draft EIS/EIR. Furthermore, CEQA does not

require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commenters. Nor does CEQA require a lead agency to analyze the impacts of the environment on the project.

### ***What is proposed relating to existing SoCalGas Company wells?***

Several comments request clarification or additional information about the activities proposed in connection with the SoCalGas wells. Some among the SoCalGas Company wells within the Ballona Reserve would be abandoned and/or relocated to the SoCalGas Property pursuant to the three restoration alternatives. Draft EIS/EIR Table 2-5, Prioritization Plan for Gas Well Decommissioning, summarizes gas well decommissioning and pipeline modification activities by phase.<sup>7</sup> The wells to be removed (abandoned) and relocated are shown in the following figures:

- Draft EIS/EIR Figure 2-30, South/Southeast Area B: Gas Well Decommissioning, provides the location of SoCalGas gas lines and wells to be removed with the legend displaying gas lines to be removed, gas lines to be replaced, gas lines to remain, gas well to be removed and gas wells to remain.
- Draft EIS/EIR Figure 2-30 shows that gas wells Vidor 5 and Vidor 14 would be removed and relocated.
- Draft EIS/EIR Figure 2-31, Area A: Gas Well Decommissioning, similarly provides the location of SoCalGas gas lines and wells to be removed in Area A. Figure 2-31 shows that Del Rey 16 gas well is already abandoned and would be removed in Phase 1; that Del Rey 17, Del Rey 18, and Del Rey 19 gas wells would be replaced; and that Del Rey 13, Del Rey 14, and Del Rey 15 gas wells would be removed in Phase 2.
- Draft EIS/EIR Figure 2-32, West and East Area B: Gas Well Decommissioning, shows that Del Rey 12 gas well would be replaced in Phase 1 and that other wells would be removed in Phase 2.

As explained in Draft EIS/EIR Section 2.2.1.4, infrastructure and utility modifications (including natural gas monitoring well and associated pipeline abandonment and relocation) are proposed to the extent they would allow for increased connectivity of habitat restoration within the Ballona Reserve, protection of existing utilities within the Ballona Reserve that are not otherwise abandoned or relocated, and consideration of residential neighbors of the SoCalGas Property, particularly in the vicinity of Potential Well Relocation Sites 4, 6 and 7. See also Draft EIS/EIR Section 2.2.2.4 (the Project “would decommission existing gas wells within the Ballona Reserve and abandon or modify gas pipelines to accommodate the restoration”). As a part of the abandonment of the wells, the top approximately 5 feet of the wells would be cut off and removed, thus separating the grout-filled lower portions of the wells left in place from the surface and shallow soils of the Ballona Reserve. Existing wells that would not be affected by the proposed restoration would remain in place pending further action at some point in the future by SoCalGas pursuant to its existing operation, maintenance, and abandonment schedule.

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<sup>7</sup> The Department of Conservation states, “Decommission means to safely dismantle and remove a production facility and to restore the site where it was located ...” However, for the purposes of this Draft EIS/EIR the terms “decommissioning” and “abandonment” are used interchangeably to mean the abandonment of an individual well, and does not affect the environmental analysis and potential impacts.



Abandoned wells would be monitored for leaks as described in Draft EIS/EIR Section 2.2.2.5: “Each well site would need to be accessible to install soil gas monitoring probes and monitor for gas leakage for 2 months following abandonment. If no gas leakage is detected during the 2-month period following abandonment, direct access to the well would no longer be required. If gas leakage is detected, deeper probes would need to be installed and monitored for 6 months. After it has been determined that there is no further gas leakage, the probes would be removed. SoCalGas would continue to conduct well gas leakage surveys on each abandoned well every 6 months. In the case of the well subsequently being submerged under water, another means of monitoring the well would be determined, such as checking for gas bubbles percolating in the water above the abandoned well.” As further explained in Draft EIS/EIR Section 2.2.2.5, heavy petroleum hydrocarbons (e.g., crude oil) could be found in near-surface soil (i.e., down to 15 feet below ground surface). If significant amounts of petroleum are found, SoCalGas and its contractor would remediate or remove the contamination for off-site disposal.

If any of the restoration alternatives were approved, there would be fewer wells than exist under current (baseline) conditions. Further, the restoration work could result in the timelier detection and correction of near-surface contamination if any is identified. See General Response 2, *Proposed Project* (Section 2.2.2.1), further regarding the proposed removal of SoCalGas Company infrastructure from within the Ballona Reserve.

For those who asked whether wells planned for relocation would be relocated outside of the restoration footprint, the answer is yes: these wells would be relocated to the SoCalGas Property shown in Draft EIS/EIR Figure ES-2, Project Site. See Draft EIS/EIR Section 2.2.2.4, which explains how SoCalGas would replace monitoring wells before abandoning them by drilling replacement wells within SoCalGas Property along the southern bluff. The SoCalGas Property consists of Sites 1 through 7, which range between 0.19 and 0.99 acres in size and represent potential future locations for some SoCalGas wells to be relocated from the Ballona Reserve as part of the Project. The combined acreage of the seven sites is approximately 4 acres. Draft EIS/EIR Section 1.2.1 provides a detailed description of each of the seven sites.

***What aspects of SoCalGas operations are not part of the proposed restoration?***

There is an apparent misperception that the proposed restoration somehow would enable SoCalGas to remain onsite within the Ballona Reserve, that it would expand or “upgrade” the wells, or includes new opportunities for slant drilling to occur. To the contrary, the proposed restoration has no impact on the SoCalGas Company’s ownership or operations, including monitoring wells and associated pipelines within the Ballona Reserve. Their operations are regulated by the California Department of Conservation Division of Oil, Gas, and Geothermal Resources (DOGGR). The SoCalGas Company has a right to continue to operate the facility to the full extent allowed by their property interests, permits, and other authorizations whether or not the proposed restoration occurs. As described above, the restoration alternatives propose to remove wells from within the Ballona Reserve and to relocate some among them out of the Ballona Reserve and onto the adjacent SoCalGas Property. No expansion or upgrade, and no new type of operation, is included in the proposal.

Multiple commenters suggest that the Playa del Rey Storage Facility be removed entirely, whether as an alternative or a mitigation measure that would require closure of the facility to avoid the risk of a leak. None of the restoration alternatives proposes to shut down the Playa natural gas field; however, the removal of gas storage infrastructure from within the Ballona Reserve would occur to varying extents under all of the restoration alternatives and, separate from and independent of the Project and alternatives, could occur as part of SoCalGas's decommissioning plans. See Draft EIS/EIR Table 2-1c, Summary of Alternatives, and Draft EIS/EIR Section 2.2.1.4, which discusses infrastructure and utility modification as a common feature of all of the restoration alternatives. See also Draft EIS/EIR Sections 2.2.2.4 (Alternative 1), 2.2.3.4 (Alternative 2), and 2.2.4.4 (Alternative 3). As noted above, operation of the Playa del Rey Storage Facility is governed by agencies other than CDFW. CDFW lacks the authority to require closure of Playa del Rey Storage Facility. CEQA does not require a justification of an existing use, and CDFW declines the invitation to offer one.

***Potential impacts of project activities involving the SoCalGas are adequately analyzed in the EIS/EIR***

Some comments suggest that the Draft EIS/EIR does not sufficiently analyze or disclose potential risks and hazards associated with the gas wells. For example, multiple comments express concern about potential hazards that could result in an event similar to the Aliso Canyon gas leak. A few commenters expressed concern that earth movement during restoration could cause a leak or that well relocation could lead to pollution or well contamination in adjacent communities. Multiple commenters requested more information about how natural gas storage will interact with nearby aquifers. Some commenters requested a map of all active and abandoned well facilities within the vicinity and clarification regarding past and future monitoring and analysis of wells. One comment suggested that the EIR did not provide sufficient details regarding what concentrations of hydrocarbon constitutes contamination and what remediation activities would be conducted.

The potential direct and indirect impacts of the Project and alternatives (including work affecting SoCalGas Company infrastructure within the Project Site) hazards and hazardous materials-related are analyzed in Draft EIS/EIR Section 3.8.6; potential cumulative impacts are analyzed in Draft EIS/EIR Section 3.8.7. Specific to concerns about the potential for gas leakage, operation and maintenance activities on SoCalGas Property would include leakage surveys on active wells on a monthly basis, on abandoned wells on a semi-annual basis, and on pipelines once a year. Also, gas well inspections would occur on a weekly basis. Hydrostatic testing of field pipelines and the plant would occur every two to seven years, depending on the involved agencies, pipe condition, and location. See also Draft EIS/EIR Section 2.2.2, *Alternative 1: Full Tidal Restoration/Proposed Action*, for a discussion on the proposed decommissioning of existing wells located in the Project Site. See also Sections 3.6.6 and 3.6.7 in Draft EIS/EIR Section 3.6, *Geology, Seismicity, and Soils*, and Sections 3.4.6 and 3.4.7 in Draft EIS/EIR Section 3.4, *Biological Resources*.

Also with respect to the analysis of potential impacts relating to the SoCalGas Company wells, some commenters expressed concern that the studies and expert opinion considered in the Draft



EIS/EIR were not conducted by independent scientists and that overall, the document's treatment and analysis of potential impacts associated with the gas facilities is somehow biased in favor of Playa Vista. See General Response 1, *Agency and Other Involvement* (Section 2.2.1), addressing suggestions of improper influence or conflict of interest.

### ***What about the costs of the proposed work affecting SoCalGas Company Infrastructure?***

Several comments request clarification or additional information about the source of funding to accomplish the activities that would affect SoCalGas Company infrastructure based on a concern that public funds would be used for the work. Local governmental funding priorities are beyond the scope of this EIR, which analyzes the potential environmental consequences of restoring the Ballona Wetlands. Nonetheless, to be clear, there is no expectation that public funds would be used to abandon or relocate SoCalGas infrastructure within the Project Site.

Many commenters suggested that the SoCal Gas Property should be acquired and used for upland restoration. None of the restoration alternatives includes the suggested acquisition of the Playa del Rey Storage Facility, including that portion within the Project Site. Nonetheless, this suggestion is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process.

### **2.2.2.4 Parking Facilities**

Consistent with CEQA Guidelines Section 15123 (14 California Code of Regulations [CCR] §15123[b][2]), Draft EIS/EIR Section ES5 identifies areas of potential controversy known to CDFW, including issues raised by agencies and the public. It identifies "parking" as a potential issue. CDFW received input both in favor of and opposed to the parking-related components of the proposed action and other restoration alternatives.

#### ***Existing Parking within the Project Area***

Multiple commenters questioned the legality of existing parking, including to the extent it may be used for current or future commercial uses in the Marina or by other County agencies, and to the extent its existence could be construed as incompatible with the purposes of an ecological reserve.

Existing parking within the Ballona Reserve is expressly allowed by the regulations that govern uses within the Ballona Reserve (14 CCR §630). As stated in Section 630, "existing parking areas may be allowed under leases to the County of Los Angeles." Permit No. 04-015 issued May 31, 2006, by the Los Angeles County Department of Beaches and Harbors for Fisherman's Village employee parking. Permit No. 04-015 indicates that it is a "month to month" approval with no designated expiration date. Comments about the parking facilities as they exist under baseline conditions do not inform CDFW's consideration of the potential impacts of the proposed restoration. In this regard, see Section 2.2.1, *Input Received*.

Some comments request that existing onsite parking and leases be phased out. In furtherance of the Project's secondary, compatible public access objective (CEQA Objective 4 set forth in Draft

EIS/EIR Section 1.1.2), CDFW has elected not to remove or reduce existing parking as part of its proposed restoration of the Ballona Reserve to provide parking for future visitors to any restored Ballona Reserve.

***What do the Project and restoration alternatives propose with respect to parking?***

Multiple comments oppose or raise questions about the three-story parking structure proposed as part of Alternatives 1, 2, and 3.

As described in Draft EIS/EIR Section 2.2.2, parking could be provided in a new three-story parking structure along Fiji Way for use by the public, Los Angeles County Department of Beaches and Harbors (LACDBH), and CDFW staff. The new structure would reduce the existing parking area footprint in that location by up to approximately 0.8 acres (which would be available for reclamation as upland habitat) and would provide a total of 302 parking spaces including ADA-accessible parking spaces, for an increase of 39 spaces from the existing parking lot. The structure would be accessed from a driveway off Fiji Way with right-turn in, right-turn out access only. Conceptual plans for this parking structure are provided in Draft EIS/EIR Figure 2-20 and Figure 2-21. Draft EIS/EIR Section 2.2.2 also describes proposed improvements for the West Culver Parking Lot, which is an existing, poorly draining gravel lot that can accommodate approximately 50 cars. This lot would be paved and striped, the drainage would be improved, and sidewalks would be installed. Approximately 43 parking places would be provided for daytime use of the Ballona Reserve. Parking in these two areas would provide public access to several trails, overlooks, and other public amenities along with views of the majority of the Project Site. As a result, CDFW expects most drivers to Ballona Reserve to park in these areas.

The Traffic Study included in Draft EIS/EIR Appendix H addresses parking in the context of the Project and alternatives and potential direct, indirect and cumulative impacts of the Project and alternatives (including parking) are analyzed on a resource-by-resource basis throughout Draft EIS/EIR Chapter 3. See, e.g., Draft EIS/EIR Section 3.12, which analyzes impacts of the Project's proposed parking-related changes relative to traffic, and Draft EIS/EIR Section 3.4, which analyzes them relative to birds and other wildlife.

CDFW received multiple questions about why the three-story parking structure was proposed. The parking structure originally was envisioned by Los Angeles Department of Beaches and Harbors (LADBH), which provided the conceptual drawings and initial analysis of the structure for inclusion in the Draft EIS/EIR, for the purpose of resolving a number of issues related to public access in and around the Ballona Reserve. Issues to be resolved included the needs to:

- Maintain the current number of parking spaces to accommodate expected increase in post-restoration visitor usage to Area A.
- Reduce the existing footprint of the paved Area A parking lots, thus providing additional restoration opportunities, without reducing the number of currently available coastal access parking spaces.
- Provide for CDFW and other government partner parking.



The proposed design would consolidate existing parking along Fiji Way in front of Fisherman's Village into the northwest corner of the lot currently occupied by CDFW. As proposed, the 3-story parking structure would reduce the currently paved parking area by approximately 0.8 acres and would result in a net increase of 39 spaces relative to the number that currently exists. The approximate 0.8 acres would be available for native restoration. In addition, having a single main access point would reduce the need for additional land dedicated for parking around in Area A. Whether the proposed parking structure is ultimately built or the existing lot remains, the levee system proposed for Area A would deviate around the existing lot footprint to protect infrastructure as stated in CEQA Objective 5 found in the Executive Summary and Chapter 1 of the Draft EIS/EIR.

The structure was designed to maintain the current number of parking spaces presently available at this lot. Current parking provides 263 spaces. The parking structure would provide 302 spaces. Although this would be an increase of 39 spaces, the increase resulted from the design process rather than an intentional increase in the quantity of parking spaces. The parking structure is proposed to be built on the existing asphalt parking footprint. Additionally, as mentioned above, the parking structure would reduce the existing paved parking area by approximately 0.8 acres, increasing the area available for restoration. This reduction in paved area is made possible by creating a single main access point in Area A, which would reduce the need for additional land to create parking.

To move forward with the proposed parking structure, CDFW would need to enter into an agreement with LADBH (or other local entity as applicable) concerning final design, funding, maintenance, and attendant issues. To be clear: CDFW would not fund construction of the parking structure and would not be responsible for the structure's long-term operation and maintenance. Another agency, presumably LADBH, would bear both the expense and the responsibility. CDFW would expect that any parking fees collected for use of the garage would first go to LADBH for operation and maintenance cost reimbursement and that any surplus would go to CDFW to be used in the management of the Ballona Reserve, and further would expect, if at any time LADBH and/or the Sheriff's Department no longer need the use of the parking spaces, that they would revert to CDFW use. However, these questions are not germane to the environmental analysis documented in the EIR. To move forward with the proposed parking structure, Coastal Commission approval of the structure also would be required pursuant to its authority under the Coastal Act. Additionally, any final design would need to be approved by CDFW to ensure minimal impact to wildlife and to ensure the final size and configuration fit the expected needs of the Ballona Reserve.

### ***What is not proposed by one or more of the restoration alternatives?***

#### **No change in parking hours is proposed.**

The public hours of operation for any parking in the Ballona Reserve would be from sunrise to sunset and would be limited in duration. As shown in Chapter 3 of this Final EIR, references in the Draft EIS/EIR to "dawn to dusk" have been revised consistent with the regulations (14 CCR 550(c)(2)(C)) to clarify that the precise phrasing of from "sunrise to sunset" was intended. Appropriate signage would be posted, and parking would be closed and locked after hours (14



CCR §550(c)(2)(C)). These regulations are enforced by CDFW Wildlife Officers and other law enforcement partners.

Some comments expressed a preference that the parking area remain open for public use after the designated hours of sunrise to sunset. Comments about potential extension of the parking hours at the West Culver Lot are acknowledged, and are included as part of the record of information that will be considered as part of CDFW's decision-making process.

**Existing parking near Area A is not proposed for removal.**

Some comments request that existing on-site surface parking be phased out or removed entirely in favor of increasing the area available for restoration. Other comments express concern that existing parking could be lost as a result of the Project or other restoration alternatives. CDFW is sensitive to the needs of the surrounding community and strives to customize situations at ecological reserves to fit unique surroundings and ultimately be a positive presence in accordance with the law.

As described in Alternatives 1, 2, and 3 in the Draft EIS/EIR, Area A would provide the single largest contiguous wetland restoration opportunity in the Ballona Reserve. Additionally, Area A would be the location of one of the primary gateways to the Reserve making it a main departure location for pedestrians and cyclists desiring to use any new Ballona Reserve perimeter bike and walking paths, and would be the location of the Reserve's only boardwalk system, which has been designed to create a feeling of solitude in an extremely urban environment and for passive recreation such as bird watching and other interpretive educational opportunities. CEQA Objective 6(a), found in the Executive Summary and Chapter 1 of the Draft EIS/EIR, is "Encouraging appropriate and legal public use throughout the Ballona Reserve ..." In this day when walking, biking, and public transit are not the exclusive means of transportation in the region, it is common for people to drive to their destination. Removing visitor parking in this location would ignore this reality and would be counter-productive to encouraging appropriate public use of the Ballona Reserve.

**Supplemental parking needs analysis has been conducted or is proposed.**

The Traffic Study included in Draft EIS/EIR Appendix H addresses parking in the context of the Project and alternatives; Draft EIS/EIR Section 3.12 analyzes impacts of the Project's proposed parking-related changes. Multiple comments requested that a parking needs analysis or an offsite parking analysis generally or specifically to demonstrate the need to retain existing parking, the need to increase available parking by 39 spaces, or to consider alternative sites for the parking structure. CDFW acknowledges these requests and notes that they are not relevant to the adequacy and accuracy of the EIR. Further, CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commenters. Nonetheless, these requests are included as part of the record of information that will be considered as part of CDFW's decision-making process.

Some commenters requested that the parking lot footprint be further reduced and that restroom facilities be added. These suggestions will be considered as part of CDFW's overall decision making process; however, they are not proposed as part of the Project.



### 2.2.2.5 Ball Fields

Baseball fields have occupied approximately 6.2 acres of land in Area C since 1956 (Draft EIS/EIR Section 2.2.2.3). Information about existing operation and maintenance activities for the fields, including the related parking area and restrooms, is provided in Draft EIS/EIR Appendix B5, *Preliminary Operations and Maintenance Plan*. The historical uses and community value for the ball fields is acknowledged and will be considered by CDFW.

According to regulations governing uses within the Ballona Reserve (14 CCR §630), “existing recreational uses may be allowed under license agreement with Playa Vista Little League in that portion of Area C identified in the license agreement and existing parking areas may be allowed under leases to the County of Los Angeles.” Existing management practices for the protection of wildlife (e.g., closing off access to areas with active nests) will continue. South Area C is planned for additional public access and passive recreation. See Draft EIS/EIR Figure 2-3, Alternative 1, Phase 2: Public Access Plan, and Section 2.2.2.3, *Alternative 1: Public Access and Visitor Facilities*. See Response I2-8 regarding post-restoration security. Under all proposed restoration alternatives, and even current management practices, it is CDFW’s intent to do as much upland restoration as possible in North Area C.

Any lease discussions with the league are separate from and independent of the Project and beyond the scope of the EIR. Nonetheless, as noted in some comments, the Draft EIS/EIR analyzes scenarios that keep or remove the existing ballfields. Neither the Project nor Alternative 3 would require closure of the ball fields and related parking in Area C; however, use of the fields could be disrupted during restoration-related activities (Draft EIS/EIR Sections ES.4.1 and ES.4.3). Under Alternative 2, the ball fields would be closed during restoration and, following the placement of fill in Area C, could be reopened at a higher elevation if outside funding and other prerequisites are met. Factors in addition to funding would include (but would not limited to) timing, demand, and need for space to implement the restoration program components (including soil storage, upland restoration and public access).

As explained in Draft EIS/EIR Section 2.2.3.3, the replacement analysis assumes that one replacement field would have a 90-foot diamond for players 13 years old and over, and two would have 60-foot diamonds for players 12 years old and younger. Consistent with requests for a more efficient layout of the ball fields following restoration, the ball fields would occupy approximately 5.5 acres if reconfigured and replaced. Responsive to concerns about whether the fill that would be placed in the area under Alternative 2 would contain hazardous constituents that would make it appropriate for recreational use by children, CDFW confirms that the field would be planted with a typical athletic turf grass.

Other suggestions regarding continued Little League use of Area C, such as opening use of the fields and related parking to the community throughout the year, adding restrooms, and increasing security patrols are acknowledged, but have not been included in the alternatives analyzed in detail in the EIR. Nonetheless, these suggestions are included in the record of information that will be considered as part of CDFW’s decision-making process. Because potential changes in the management of the ball fields and potential relocation of the fields outside the Project Site are beyond the scope of the EIR, comments received about these topics,

including that a cost/benefit analysis be conducted before allowing ball field use of Area C to resume, have not been addressed in detail.

### 2.2.2.6 The Definition of “Restoration”

One commenter insightfully notes that the “definition of restoration, the type of restoration, the goal of restoration, and the methods of restoration are complex, nuanced, potentially controversial subjects.” Multiple comments request clarification of the definition of “restoration” relied upon in the Draft EIS/EIR or suggest that other definitions instead should have been used. Comments suggest use of the Coastal Act definition or provide information about EPA’s principles for the ecological restoration of aquatic resources. Other comments accurately note that the Draft EIS/EIR’s use of the term “restoration” includes elements of both habitat restoration and habitat creation. A more detailed response to each of these types of comments is provided below.

One comment suggests that the analysis rely on the definition of restoration provided in the federal regulations (33 C.F.R. §332.2). The EIR does to some extent because CDFW is applying for a permit from the Corps. As described in Draft EIS/EIR Section 2.2.1.1, “Ecosystem restoration includes native wetland and upland habitat restoration and enhancement. ‘Restoration’ means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former or degraded resource; restoration may be divided into two categories: re-establishment and rehabilitation (33 C.F.R. §332.2).” Draft EIS/EIR Section 2.2.1.1 further provides, “[a]s defined in the Corps’ regulations (33 C.F.R. §332.2), “re-establishment” returns natural/historic functions to a former aquatic resource and results in a gain in aquatic resource area and functions, while “rehabilitation” improves aquatic resource functions without a gain in aquatic resource area. Alternative 1, Alternative 2, and Alternative 3 propose to restore tidal wetland in Area A. Alternative 1 and Alternative 2 also propose to restore tidal wetland in North Area B. This restoration could occur, for example, through the excavation of ruderal areas to an appropriate elevation followed by native plantings. As further defined in the Corps’ regulations (33 C.F.R. §332.2), “Enhancement means the manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area” (33 C.F.R. §332.2). The Project and Alternative 2 propose managed wetland enhancement in South/ Southeast Area B with water control structures (i.e., culverts with tide gates) to manage water levels and flows. This enhancement could include, for example, the return of tidal flow to an isolated salt marsh to create a dynamic tidal habitat supporting a greater diversity of native salt marsh plants and animals over time. Habitat types that would be rehabilitated, re-established or enhanced within the Ballona Reserve include subtidal, intertidal, tidal wetland, brackish marsh, salt pan, dune, annual grassland, transitional, upland scrub, and riparian scrub. Restored habitat distribution and acreages vary by alternative.” The Draft EIS/EIR uses these terms as defined under the federal 2008 Final Rule that expanded the 404(b)(1) guidelines for Compensatory Mitigation for Losses of Aquatic Resources (33 C.F.R. Parts 325 and 332; 40 C.F.R. Part 230; 73 Fed. Reg. 19594) in the context of the Corps’ regulatory contexts, which are further described below.



The Corps defines “ecosystem restoration” as “the process of assisting in the recovery of ecosystems that have been degraded, damaged, or destroyed and focuses on establishing the ecological processes necessary to make terrestrial and aquatic ecosystems sustainable, resilient, and healthy under current and future conditions”<sup>8,9</sup> The Corps is not a project sponsor for this Project (see Draft EIS/EIR Section ES.2.2, *Lead Agencies*). Nonetheless, the Project qualifies as restoration for purposes of the Corps’ definition because wetlands and other habitats within the Ballona Reserve have been degraded, damaged, or destroyed as a result of past actions. See, for example, the descriptions in Draft EIS/EIR Sections ES.1 and 1.2.2, of the extent to which non-native, invasive plants now crowd out native plants (providing less support for native wildlife) and the disposal of approximately 2.8 to 3.5 million cubic yards (cy) of dredged material onto the wetlands that occurred during the construction of Marina del Rey in the 1950s. The Project qualifies as restoration given its proposed removal of non-native invasive plants and planting and maintenance of native ones as well as its removal of the sediment in Area A that was deposited during the construction of Marina del Rey.

Some comments accurately note that the Draft EIS/EIR’s use of the term “restoration” includes elements of both habitat restoration and habitat creation. This is consistent with the explanation provided in Draft EIS/EIR Appendix B3, which states: “It should be noted that the proposed restoration includes elements of both habitat restoration and habitat creation. The Lead Agencies’ understanding of the historical ecology of the Ballona region is largely inferred from historical accounts of the Los Angeles coast;<sup>10</sup> few hard data exist regarding historical habitat composition or ecosystem function at the [Ballona Reserve]. Moreover, development within the Ballona Creek watershed and the associated need for flood control greatly limit the options available for restoration. Some aspects of the restoration plan involve ‘restoration’ in the sense of recovering historical conditions. However, most aspects of the restoration plan involve reestablishment of natural processes and ecological functions and either habitat creation (i.e., creating a particular type of habitat where it previously did not exist) or habitat enhancement (i.e., modification of existing conditions). However, to avoid overcomplicating the [EIR], the

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<sup>8</sup> U.S. Army Corps of Engineers, 2012. What is ecosystem restoration? July 12, 2012. Available online: <https://www.usace.army.mil/Media/News-Archive/Story-Article-View/Article/477888/what-is-ecosystem-restoration/>.

<sup>9</sup> The International Union for Conservation of Nature (IUCN) and the Society for Ecological Restoration (SER) also define restoration as “the process of assisting the recovery of an ecosystem that has been degraded, damaged, or destroyed” (IUCN, 2018; SER, 2018), SER further defines the key terms damage, degradation, and destruction as follows (SER, 2018): “Damage refers to an acute and obvious harmful impact upon an ecosystem such as selective logging, road building, poaching, or invasions of non-native species. Degradation refers to chronic human impacts resulting in the loss of biodiversity and the disruption of an ecosystem’s structure, composition, and functionality. Examples include: long-term grazing impacts, long-term over fishing or hunting pressure, and persistent invasions by non-native species. Destruction is the most severe level of impact, when degradation or damage removes all macroscopic life and commonly ruins the physical environment. Ecosystems are destroyed by such activities as land clearing, urbanization, coastal erosion, and mining.” See Society for Ecological Restoration, 2018. What is Ecological Restoration? Available online: <https://www.ser-rrc.org/what-is-ecological-restoration/>. Accessed October 25, 2018. See also International Union for Conservation of Nature, 2018. Commission on Ecosystem Management: Ecosystem Restoration. Available online: <https://www.iucn.org/commissions/commission-ecosystem-management/our-work/cems-thematic-groups/ecosystem-restoration>. Accessed October 25, 2018.

<sup>10</sup> See, e.g., Dark, Shawna; Stein, Eric D., et al., 2011. *Historical Ecology of the Ballona Creek Watershed*. Southern California Coastal Water Research Project. Technical Report #671.

term ‘restoration’ was used throughout the text and is meant to encompass all of these elements and not only the re-creation of a historical condition.”

CDFW recognizes that other definitions of the term “restoration” are possible. However, CDFW utilized the term as indicated above. For this reason, and because the EIR uses the term “restoration” consistently throughout, CDFW disagrees with the opinions stated that the description of the Project is misleading or that the EIR is somehow flawed by this disagreement. Ultimately, this issue of semantics does not affect the EIR’s analysis nor CDFW’s objectives as disclosed in the EIR. More specifically, all alternatives would result in a greater quantity of estuarine and associated habitats at the Ballona Reserve than currently exists. Nonetheless, all opinions, including these, are part of the record of information that that will be considered as part of CDFW’s decision-making process.

## 2.2.3 General Response 3: Alternatives

### 2.2.3.1 Requests for a “Freshwater Alternative”

Multiple comments requested that CDFW consider a “freshwater alternative.” As rationale for these requests, some explain that a freshwater restoration alternative would remove two allegedly unpermitted drains, fully mitigate adjacent dewatering at Playa Vista (see General Response 4 [Section 6.4.4]), and would restore the aquifers below the Project Site to historic positive estuary conditions. To the extent that any “freshwater alternative” would increase existing flood risk levels in Southeast Area B or elsewhere, CDFW notes that such an alternative could not, consistent with the project objectives (Draft EIS/EIR Sections ES.3 and 1.1), be carried forward for detailed review. See Draft EIS/EIR Section 2.1.3.

Some commenters asked why (besides drought) there has been a lack of freshwater in the Ballona Reserve. See General Response 4 (Section 2.2.4), which provides information about two allegedly unpermitted drains that were subject to the Coastal Commission’s December 2017 action, and notes that the Project and Alternative 2 propose to utilize freshwater, when available, from the Freshwater Marsh to create a more brackish system in Southeast Area B and to protect the freshwater springs that presently exist in West and South Area B as a part of the proposed restoration.

Regarding suggestions that pumps and tidegates are cheaper and require less management than the Project, CDFW notes that CEQA Objective 1(b) guides a project that is self-sustaining and minimizes the need for active management while still maximizing habitat goals. Adding additional tide gates and pumps to move water around in a highly unnatural manner would not achieve this important CEQA objective, would not satisfy screening criterion c (as set forth in Draft EIS/EIR Section 2.1.3), and would create a highly managed system instead of a more passive, more natural, system that will play a very important role in defining and maintaining the physical and biological functions of the Ballona Reserve.

It is unclear to CDFW how operating pumps and tidegates would be less expensive than a restoration project like Alternatives 1, 2, and 3 that are self-sustaining and minimize the need for active management. Contrary to the suggestion in one comment, monitoring would still be required with an alternative involving tidegates and pumps to help ensure successful restoration.



Also, levee management would also still be required with tidegates and pumps because either the existing levees or new levees would be required to maintain the existing flood protection. Part of the cost to actively manage the land with pumps requires a certain amount of redundancy. Should pumps fail, habitat relying on the pumped water would likely perish. As a result, redundancy in terms of equipment and power supply is critical to the suggested alternative. Additionally, excavation to install piping throughout the Ballona Reserve is likely necessary; or pipes would be exposed which could require additional maintenance and security to prevent tampering and vandalism. Another maintenance issue arises from controlling vectors. Merely placing freshwater on the Ballona Reserve is likely to create a vector control issue. One of the proposed restoration goals is addressing vectors through tidal circulation. That could be recreated with the pumps, but such activity adds to the long-term operation and maintenance costs. Further, Alternatives 10 and 11 were analyzed in the Draft EIS/EIR and determined to not meet the most basic project objectives because they either would not maintain or improve flood protection and storm water management, would not limit the need for significant modification to regionally important infrastructure, or would require a highly managed system. See also General Response 3 (Section 2.2.3.4, *Alternatives Considered but Not Carried Forward*) for additional details.

### 2.2.3.2 Requests for a “Historically Accurate” Alternative

Some comments phrase the request for a “freshwater alternative” in terms of a historically accurate project that pipes in water and does not remove the existing fill or that reconnects Ballona Creek to its historic floodplain. However, to provide a “historically” accurate project, a particular historical baseline condition would have to be selected, and that particular baseline or time period would need to be justified as the appropriate historical condition in consideration of existing and future physical, biological and technical constraints.

Different comments appear to intend different time frames when they discuss historic conditions. In one comment, “historically” signifies prior to the installation of the drains discussed in General Response 4. Another identifies the “historic presence” of western mudflat tiger beetle “around 1980.” In others, “historical” signifies prior to the placement of fill material within the Ballona Reserve, prior to the Playa Vista development, prior to damage by urban settlement, and “during the last 300–500 years.” Other comments have not provided any temporal reference for what the commenter intended as “historic.” One says, “Historically, these [homeless] encampments have been pervasive in Area C North” while another refers to the “historical ecology of the Ballona watershed.” Other comments have asked that the restoration project recreate a Ballona Creek that existed before it was channelized and its mouth was made permanently open to the ocean (between approximately the 1820s and 1930s). Historic photos from circa 1915 included in the 2004 Ballona Wetlands Training Manual show a meandering natural creek, “... when Ballona Creek, once a meandering stream (shown below) that supported riparian woodland, native freshwater turtles and frogs, feeding the inland end of the Ballona Wetlands.” At present, Ballona Creek’s hydrology is more similar to the perennial flow regime the Los Angeles River provided when it flowed through the Ballona Watershed. Within this perspective, the EIR provides historically relevant restoration alternatives within the present day’s urban constraints, albeit pre-1820s.

Historical ecology studies and imagery suggest that a tidal marsh-tidal flat dominant system existed in the proposed wetland restoration areas and that an alkaline/freshwater system occurred further inland than the extent of the proposed wetland components of the restoration project, approximately 1.5 miles inland from the coast.<sup>11</sup> Furthermore, the U.S. Environmental Protection Agency's (EPA) Ballona Creek Wetlands Total Maximum Daily Load (TMDL) defines the Ballona Wetlands as a "tidal marsh-tidal flat dominant system" and as having a 303(d) impairment listing for "reduced tidal flushing" and acknowledges that compared to freshwater inputs, "... the more limiting factor, comparatively, is a significant reduction in tidal flow." EPA data shows that there was some freshwater wetland and riparian habitat historically (approximately 10 percent and predominantly just upstream from the Project Site) but the primary loss of habitat compared to historical conditions is in the loss of salt marsh habitat. The restoration alternatives analyzed in detail in the EIR attempt to restore and enhance much of the historic, and now rare, salt marsh habitats that once existed in Areas A and B, and to support species dependent on these rare habitats, to the extent possible given current constraints.

In addition, to enhance the Ballona Reserve in a very limited hydrologic fashion by piping in freshwater from upstream during low-flow periods, without removing the fill placed in the wetlands would not be historically accurate under any scenario and would not meet the CEQA project objectives relating to the restoration, enhancement and creation of estuarine and associated habitats, and restoration of coastal aquatic resources to increase available breeding and foraging habitat for native wildlife while maintaining flood protection for surrounding communities, respectively.

### 2.2.3.3 The Range of Alternatives

CDFW received some comments that suggest the range of alternatives considered is unreasonable due to a failure to consider bringing freshwater into the Ballona Reserve. Other comments suggest that the description of the basic objectives of the Project were so narrowly drawn as to improperly constrain the range of alternatives analyzed in detail. CDFW believes that the EIR provides a good faith effort at full disclosure of alternatives to the Project in accordance with CEQA Guidelines Section 15126.6. This Section 2.2.3.3 describes some of the information used to develop the project objectives, including the emphasis on estuarine habitat.

#### Historical context

The Ballona Reserve ecosystem is one of the last remaining major coastal wetlands in Los Angeles County. See Section 2.1 of the Ballona Wetlands Exiting Conditions Report (2006), the Wildlife Conservation Board minutes of the September 30, 2003, meeting ("WCB Minutes"),<sup>12</sup> and Section 2.1 of the Ballona Creek Wetlands Total Maximum Daily Loads for Sediment and Invasive Exotic Vegetation.<sup>13</sup> Within the Santa Monica Bay watershed, tidal wetlands are

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<sup>11</sup> Dark et al., 2011.

<sup>12</sup> Wildlife Conservation Board, 2003. Minutes of the September 30, 2003, Board Meeting. Available online: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=101320&inline=1>.

<sup>13</sup> U.S. EPA, Region IX, 2012. Ballona Creek Wetlands Total Maximum Daily Loads for Sediment and Invasive Exotic Vegetation. Section 2.1. Available online: [https://www.waterboards.ca.gov/rwqcb4/water\\_issues/programs/tmdl/Established/Ballona/BallonaCreekWetlandsTMDL-final.pdf](https://www.waterboards.ca.gov/rwqcb4/water_issues/programs/tmdl/Established/Ballona/BallonaCreekWetlandsTMDL-final.pdf), March 26, 2012.



concentrated in two main locations: Ballona and Malibu. According to a 1993 wetland inventory, there are approximately 3,000 acres of wetlands in the Santa Monica Bay watershed. Of the estuarine wetlands in the Santa Monica Bay watershed, 41 percent (24 acres) of the lagoon saltmarsh and 100 percent (225 acres) of the diked wetlands occur at the Ballona Reserve, Ballona and Del Rey Lagoons, and Ballona Creek.<sup>14</sup>

The loss of coastal wetlands is underscored by the fact that between 1850 and 1890, there was approximately 14,149 acres of wetlands in just the Ballona Creek watershed, a sub-unit within the larger Santa Monica Bay Watershed.<sup>15</sup> At that time, the dominant wetlands types were alkali meadow (35 percent), valley freshwater marsh (10 percent), brackish to salt marsh/tidal marsh (9 percent), and alkali flats (8 percent). The 2011 analysis, which inventoried these wetlands, divided the Ballona Creek watershed into four regions: Ballona Valley, Ballona Lagoon, Santa Monica Mountains Foothills, and La Cienega. The Ballona Lagoon region (which includes the Ballona Reserve) covered 4,288 acres and extended from the base of the bluffs to the south all the way to the intersection of Main Street and Abbot Kinney to the north, and as far east as Overland Boulevard.

Approximately half of the aggregate Ballona Lagoon area from the 1850–1890 study period consisted of a freshwater and tidally affected saltmarsh and brackish habitats that transitioned into a more alkaline/freshwater system about 1.5 miles (2.4 km) inland. The coastal area of the Ballona Lagoon region consisted of 1,239 acres of brackish to salt marsh/tidal marsh habitat (29 percent), and 423 acres of salt flat/tidal flat (10 percent). Inland areas of the Ballona Lagoon were dominated by 1,118 acres of alkali meadow (26 percent) and 562 acres of wet meadow (13 percent).<sup>16</sup> The loss of wetland from the 1850–1890 study period to today truly underscores the fact that the Ballona Reserve is one of the last remaining coastal wetlands in Los Angeles County.

The following information from the 2006 Ballona Wetland Existing Conditions Final Report (cited to in several sections of the Draft EIS/EIR) summarizes several of the historical changes at the Ballona Reserve that resulted in a loss of wetland habitat.

Over the past two centuries, there have been significant changes to the Ballona Wetlands, both anthropogenic and natural. These have resulted in major changes in the size and function of coastal wetland habitats at Ballona Wetlands. The most important of these was construction of the Ballona Creek flood control channel, which significantly altered wetland hydrology. Additional alterations of coastal wetland habitats included conversion of saltmarsh to agricultural uses in Area B, construction of Culver Boulevard through Area B, and deposition of dredge spoil on Area A during construction of the harbor in Marina del Rey. In the 2006 Ballona Wetland Existing Conditions Final Report, Figure 3-2 shows Ballona Wetlands in 1876 (by which time

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<sup>14</sup> Philip Williams & Associates Ltd (PWA), 2006. Ballona Wetland Existing Conditions Final Report. Prepared by PWA with Western Solutions, EDAW, Tierra Environmental, Keane Consulting, Allwest, and MMA for the California State Coastal Conservancy. August 2006.

<sup>15</sup> Dark, Shawna; Stein, Eric D., et al., 2011. Historical Ecology of the Ballona Creek Watershed. Southern California Coastal Water Research Project. Technical Report #671.

<sup>16</sup> Dark et al., 2011, including Figure 20 and Table 6.



some modification had already occurred) and 1903, and Figure 3-3 shows the Ballona Wetlands of 1904 overlaying a more recent USGS map.

The mouth of the Los Angeles River has historically shifted between its present position in San Pedro Bay and Ballona Creek as a response to extreme flood events. During floods of 1825 the river broke out of its course and flowed southward to San Pedro Bay. In 1862, and again in 1884, some flood water reoccupied Ballona Creek. Since 1884 the course of the Los Angeles River has been maintained to the south and away from Ballona Creek. This removed a major, but sporadic, source of flooding and sediment to Ballona Wetlands.

The construction of railroad tracks and roads has bisected the Project Site, altering the natural hydrology for freshwater and tidal flow. In the 1900s the Pacific Electric Railroad to Playa del Rey was extended through parts of Areas A, B, and C. This included the placement of fill to elevate the tracks above tidal elevation. While the railroad tracks have gone, the fill remains, creating upland areas within the former wetlands. The construction of Lincoln and Jefferson Boulevards followed in 1918, bisecting the wetlands to the east. Flows from the east were routed through culverts under Culver Boulevard in Area B.

Commercial activities on the Project Site included farming of lima beans and barley from the 1930s up to 1985 in Area B, east of the Gas Company road. Agriculture was also important in Area C, which was entirely in agricultural production by 1933. Many tidal channels were filled by farming operations.

In the 1920s, oil and gas production began. Fill was placed to construct and raise platforms to protect oil and gas facilities from extreme tides. These platforms were connected by a series of access roads also elevated on fill. The Gas Company road in Area B is particularly significant as its culverts slow the recession of floodwaters from the east. In Area A the platforms and access roads have created a number of depressions which may pond water.

In the early 1930s, Ballona Creek was straightened and the banks armored by the Corps. Construction of the eastern portion of the flood control channel was started before 1934, while construction of the channel through the western portion was completed by 1934. The creek was confined to a defined channel during virtually all flow events with severe impairment of both tidal interaction and freshwater supply to the wetlands. The south bank of the channel prevented normal tidal exchange between the creek and the wetlands in Area B. Drainage from Area B to the channel was accommodated by culverts equipped with flap-gates. Leakage and occasional blockage of the gates allowed some limited tidal exchange to continue. Material from the construction of the channel was sidecast mostly north of the channel in a broad band approximately 300 to 400 feet wide.

Centinela Ditch was excavated through Area B sometime before 1950.<sup>17</sup> channelizing freshwater flows from east of Lincoln Boulevard. In 1962, Centinela Creek was channelized and diverted to Ballona Creek which redirected drainage from approximately 15 percent of the Centinela Ditch watershed east of Lincoln Boulevard and significantly reduced freshwater flow into Area B.

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<sup>17</sup> Straw, 1987.



Throughout the 20th century substantial urbanization has occurred around the whole project area which has redirected surface flows into the storm drain system and increased the volume of peak storm runoff flows. Surface runoff from the bluffs has been substantially altered and its route on to the wetlands is now confined.

One of the largest changes to the area came in the early 1960s with the excavation of Marina del Rey and the disposal of dredged material from that project on to the remaining wetlands north of Ballona Creek. Fill was placed on both Areas A and C. The land surface was raised 12 to 15 feet above MSL, above tidal inundation and burying the existing marsh surface and drainage channels.

More recently, two projects have altered flows within Area B. In 2003 the Freshwater Marsh was constructed, which diverted freshwater flows from Centinela Ditch, Lincoln Boulevard, and Jefferson Boulevard storm drain into the new marsh and out into Ballona Creek, away from Area B. In the same year the flap-gates on the east channel in Area B were replaced with self-regulating tide-gates to provide control over the muted tidal inundation regime in Area B.<sup>18</sup>

The loss of coastal wetlands is widely recognized as contributing to decreased biodiversity, species declines, and increase in coastal hazards.<sup>19</sup> As mentioned on page 35 of the Ballona Wetlands Feasibility Report (Draft EIS/EIR Appendix B8), “habitat restoration provides opportunities for the preservation of the region’s plant and animal species as well as the opportunity for the recovery of lost or declining biodiversity. The biological communities of coastal southern California have experienced a decline in species richness, or diversity, as a result of loss of over 90 percent of their wetland habitat following urban and agricultural development. Declining biodiversity includes plant and animal species that are listed as threatened or endangered, many of which are associated with wetland habitats. Restoration of Ballona wetlands offers the opportunity to create refuges for these species and habitats for other species to recover locally and potentially act as a “seed” source for other nearby wetland systems.” See also the Existing Conditions Report’s descriptions of the decline in native species in the Ballona Reserve region.

### **Development of CEQA project objectives**

It is against this backdrop that the State of California acquired the Ballona Reserve in 2003 with the intent to restore the area. In some respect, the acquisition represents the conclusion of over 20 years of contention between landowners and those concerned with the impacts related to developing the area.<sup>20,21</sup> At the time of acquisition, restoration planning goals were summarized as: restore tidal circulation to the extent feasible; provide the range of freshwater, brackish and saltwater wetland habitat that is typically associated with a coastal estuary; provide significant new habitat area for a variety of native species of plants and animals, including migratory birds;

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<sup>18</sup> Ballona Wetlands Existing Conditions Report, 2006.

<sup>19</sup> Jacobs, 2010. Classification of California Estuaries Based on Natural Closure Patterns: Templates for Restoration and Management. p. 1.

<sup>20</sup> Carlyle W. Hall, Jr., 2012. Protecting the Ballona Wetlands in West Los Angeles: A Look Back at Three Decades of Urban Habitat Advocacy, 6 Golden Gate U. Envtl. L.J. 25.

<sup>21</sup> See also Wildlife Conservation Board, 2003. Minutes of the September 30, 2003, Board Meeting. Available online: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=101320&inline=1>.

provide for cost-effective flood management; protect cultural resources; and provide appropriate public access, public recreation, educational, and interpretive opportunities.<sup>22</sup>

The CEQA objectives in Draft EIS/EIR Sections ES.3 and 1.1 remain quite similar to the 2003 restoration planning goals in the WCB Minutes. This consistency in restoration goals is unsurprising given the facts such as the Ballona Reserve being a coastal body, the historical information the State objectives tiered off, and current constraints to the site. In fact, at least two other efforts contemplating restoration at the Ballona Reserve contained similar project elements: the 2005 notice by the Corps of the intent to prepare an EIS to support an ecosystem restoration feasibility study of several actions including but not limited to removing impervious surfaces from the Ballona Channel, removal of fill, and reintroduction of a water source and installation of native plants to restore previously filled coastal wetlands (see General Response 1, Section 2.21 for more information); and the “Ballona Wetlands Restoration Goals and Objectives” in Exhibit B to a 1990 litigation settlement agreement between the Friends of the Ballona Wetlands, League for Coastal Protection, League of Women Voters of California, Mary Thomson, and Maguire Thomas Partners-Playa Vista, with the goal to restore a “dynamic, self-sustaining tidal wetland ecosystem that results in a net gain in wetland functions and a net gain in wetland acreage ...” with the “creation of a full-tidal system” as the preferred alternative. The Scientific Advisory Committee (SAC), an interdisciplinary team of scientists charged with ensuring that the restoration plan was developed based on the best available science, “provided substantial input on the project’s ecosystem restoration goals and subgoals” over a series of meetings.<sup>23</sup> The SAC’s input coupled with public input during the initial planning process resulted in CDFW’s development of the CEQA objectives.

As noted above, some public comments on the objectives seem to imply that Project goals related to estuarine habitat were developed to intentionally narrow the potential restoration options to preclude restoration to a predominantly freshwater habitat. Although CDFW developed the CEQA objectives with intention, it was not to preclude any particular restoration option. Instead, development of the CEQA objectives relied on a variety of information and best available science, such as historical information, physical processes, existing landscape constraints, and logistics. The information appearing above in this response is but a sample of the type of information CDFW used to develop the CEQA objectives.

Ultimately, CDFW has broad discretion under CEQA to define project objectives: “Although a lead agency may not give a project’s purpose an artificially narrow definition, a lead agency may structure its EIR alternative analysis around a reasonable definition of underlying purpose and need not study alternatives that cannot achieve that basic goal. For example, if the purpose of the project is to build an oceanfront resort hotel ... or a waterfront aquarium ... a lead agency need not consider inland locations.” *In re Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings* (2008) 43 Cal. 4th 1143, 1166. Moreover, other than receiving broad

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<sup>22</sup> Wildlife Conservation Board, 2003. Minutes of the September 30, 2003, Board Meeting. Available online: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=101320&inline=1>.

<sup>23</sup> Memo from Ballona Wetlands Science Advisory Committee to Ballona Project Management Team, October 15, 2008.



statements that the Project Objectives are too narrow, commenters provided little to no indication as to why they believe the objectives are too narrow.

CDFW recognizes that with any large project, some members of the public will have different opinions as to how the Ballona Reserve should be restored, or more specifically that restoration should be predominantly freshwater. Although CDFW does not expect to change those opinions, CDFW notes that the Ballona Reserve has long been identified as a significant regional opportunity for estuarine wetlands restoration. As mentioned in pages 26-27 of the Ballona Wetlands Feasibility Report (Draft EIS/EIR Appendix B8), “one important factor in prioritizing habitats for restoration is to identify those habitats that are rare in the region. This includes habitat types that have been lost due to development as well as habitats that require a specific combination of natural processes so that they can only be created in a few, specific places. ... Estuarine wetlands, including vegetated tidal marsh, intertidal channels, mudflats and salt pans, are a regionally rare habitat that can only be restored in very specific locations. ... The Southern California Wetlands Recovery Project, identifies tidal wetland restoration as a key priority in their Regional Strategy. The Regional Strategy states tidal wetlands can only be established within a small elevation range and a compatible geologic setting, and the region’s rugged topography and extensive development restricts opportunities for restoration of tidal wetlands in Southern California. The [Ballona Reserve] restoration project represents the only opportunity to restore a large tidal wetland in Santa Monica Bay, and fills a large gap in the chain of wetlands along the Southern California coast.”

#### **2.2.3.4 Alternatives Considered but Not Carried Forward**

##### ***Alternative 5: Enhance Existing Habitat with Minimal Grading***

CDFW received comments expressing a preference for full, detailed analysis of an alternative that entails restoration work primarily by hand (as would occur under Alternative 5) and not by mechanized equipment. As described in Draft EIS/EIR Section 2.3.1, Alternative 5 would preclude the use of “large-scale earthmoving ... within the Ballona Reserve” and is similar to Feasibility Report Alternative 1, shown in Draft EIS/EIR Figure 2-55. However, Alternative 5 has not been carried forward for more detailed review because it is infeasible and would not meet most of the Project’s basic objectives.

Regarding infeasibility, Alternative 5 “would not be reasonable because its implementation would be speculative and impractical and also is likely to be ineffective. Removal of the non-native pampas grass in South Area B would not be effective without the use of heavy equipment or mechanical means due to the extensive amount of biomass and risk of seed dispersal.” Essentially, “the proposed restoration could not be completed in a reasonable amount of time without the use of heavy equipment.” Also, Alternative 5 was not carried forward because the limited ecosystem restoration work that would result would preclude the potential alternative from meeting most of the basic objectives of the Project. As explained in Draft EIS/EIR Section ES.1, *Background and Project Overview*, approximately 2.8 to 3.5 million cubic yards (cy) of dredge material was deposited on top of the wetlands during the construction of Marina del Rey in the 1950s, transforming what had been wetlands abundant with fish and waterfowl into disturbed upland habitat and impaired and degraded wetlands. Without the use of heavy equipment, moving the

amount of substrate that would be required to restore tidal elevations in Area A would require approximately 27.9 million wheelbarrow loads to other areas of the Project Site. This would present an impracticable logistical challenge, especially without the ability to construct bridges to move soil across roads and/or Ballona Creek. Restoring tidal connections to Ballona Creek also would require modifying the existing levees and/or installing new or modified water control structures, all of which would require heavy earthwork equipment.

Habitat degradation is occurring faster under existing conditions than current restoration efforts can offset or overcome. Mechanized excavation and grading has been used to successfully restore hundreds of wetland acres statewide, including at Malibu Lagoon, and could implement restoration efforts with appropriate speed. The Project, including the use of mechanized equipment, would excavate most of the existing fill material and excess sediment that is dominated by exotic vegetation, replacing it with blue water tidal wetlands, green marshes, and native plant cover. The excess fill material would be reused to build elevated multi-purpose perimeter berms to support upland habitat, walking trails, bike paths and general public access, and to protect low-lying areas from flooding. Draft EIS/EIR Section 3.4, *Biological Resources*, documents CDFW's analysis of potential impacts of the Project to species (including birds such as Belding's savannah sparrow, black-bellied plover, and western snowy plover) and their habitats (including marsh grasses).

### ***Alternative 6: Smaller Area Tidal Wetland Restoration***

CDFW received comments expressing a preference for Alternative 6, which was initially considered but not carried forward for more detailed analysis in the EIR. Alternative 6 is described in Draft EIS/EIR Section 2.3.2, shown in Draft EIS/EIR Figure 2-56, and analyzed relative to the screening criteria. As discussed in Draft EIS/EIR Section 2.3.2, Alternative 6 was not carried forward for more detailed review because it would not meet most of the basic objectives of the Project. In short, and as explained more fully in the EIR, habitat restoration under Alternative 6 would be minimal as compared to the Project and Alternatives 2 and 3, while requiring substantial infrastructure changes including constructing new culverts from Marina del Rey to Area A, replacing a section of the existing sea wall, and modifying/relocating an existing sewer line; all while still requiring substantial earth moving and off-haul from Area A and not receiving the large-scale ecological restoration benefits in return.

### ***Alternative 7: Larger Area Tidal Wetland Restoration***

CDFW received comments expressing a preference for full, detailed analysis of Alternative 7. Alternative 7 is described in Draft EIS/EIR Section 2.3.3, shown in Draft EIS/EIR Figure 2-57, and analyzed relative to the screening criteria. As proposed under Alternative 7, "Culver Boulevard, Jefferson Boulevard, and the SoCalGas access road would be improved and raised on levees or a causeway to create an open connection to approximately 20 to 25 acres of enhanced wetlands in south Area B." Alternative 7's expanded culverts under Dock 52 would have a flow velocity two to three times higher than in natural tidal channels, which constrains access by fish and wildlife. Also, installing new culverts under Dock 52 or another location along the northern boundary of Area A would require crossing and modifying existing infrastructure along Fiji Way and the northern boundary of Area A. New culvert construction from Marina del Rey Harbor to



Area A under Fiji Way is significantly constrained by potential impacts to the Marina del Rey Harbor sea wall, underground utilities, and navigation. Future maintenance and refurbishment of the culverts also would be required. Ultimately, Alternative 7 would not meet most of the basic objectives of Alternative 1 and would not be feasible.

### ***Alternative 8: Large Area Tidal Wetland Restoration and Subtidal Basin***

CDFW received comments expressing a preference for full, detailed analysis of Alternative 8. Alternative 8 is described in Draft EIS/EIR Section 2.3.4, shown in Draft EIS/EIR Figure 2-58, and analyzed relative to the screening criteria. As described in the summary provided in Draft EIS/EIR Section 2.3.4, Alternative 8 was not carried forward for more detailed review because it would not meet most of the basic objectives of the Project and would not be feasible.

### ***Alternative 9: Realignment of Ballona Creek Including Relocation or Raising of Key Roads***

CDFW received comments expressing a preference for full, detailed analysis of Alternative 9. Culver Boulevard, Jefferson Boulevard, and the SoCalGas access road also could be improved and raised on levees or a causeway to create an open connection to approximately 20 to 25 acres of enhanced wetlands in south Area B under Alternative 7 or Alternative 8. Alternative 9 is described in Draft EIS/EIR Section 2.3.5, shown in Draft EIS/EIR Figure 2-59, and analyzed relative to the screening criteria. None of the three options for Alternative 9 was carried forward for more detailed review because none would meet most of the basic objectives of the Project and none would be feasible. With regard to opening Southeast Area B to full flood waters and the related need for mechanical pumping, see Draft EIS/EIR Section 2.3.5.

### ***Alternative 10: Manipulated Wetlands Alternatives***

CDFW received comments expressing a preference for full, detailed analysis of Alternative 10. Alternative 10 is described in Draft EIS/EIR Section 2.3.6 and analyzed relative to the screening criteria. Alternative 10 was not carried forward for more detailed review because it would not meet most of the basic objectives of the Project and would not be feasible. See Section 2.2.3.1, *Requests for a Freshwater Alternative*, for additional information.

One of the comments received takes issue with the final reason stated for not carrying Alternative 10 forward for more detailed review: legal feasibility. The comment mentions the legally enforceable obligations associated with Playa Vista's operation of the Freshwater Marsh, and asserts those obligations should be reviewable by the public. Draft EIS/EIR Section 2.3.6 cites to a Neighborhood Council of Westchester/Playa website from 2017 and the 2012 TMDL as documenting the Freshwater Marsh's mitigation obligations. In reviewing this matter to respond to the comment, CDFW determined that neither the Neighborhood Council of Westchester/Playa website nor the TMDL specify the regulatory requirements referenced in the Draft EIS/EIR. Instead, the TMDL describes how the Freshwater Marsh is designed to capture all flow up to a one-year storm flow, and that flows greater than the one-year event will spill over from the Freshwater Marsh into Southeast Area B. The TMDL further states that the Playa Vista development applied for and received a variety of permits including a Corps 404 permit

and related Habitat Management and Monitoring Plan, section 401 certification, and a California Coastal Commission Coastal Development Permit. The TMDL went on to state that these permits contain performance criteria which are “conditions and requirements” of the permits, “and, as such, are ‘regulatory standards’ as that term is used in the Draft Los Angeles CEQA Thresholds Guide.” CDFW reviewed the permits and could not identify any specific legal obligations that would be violated by opening a tidal connection to Southeast Area B. However, CDFW does note that if floodwaters from a large storm event in Ballona Creek were able to flood Southeast Area B, the Freshwater Marsh would be unable to spill over into Southeast Area B, which arguably impacts operation of the Freshwater Marsh. Nevertheless, CDFW recognizes that its reliance on the TMDL’s use of the phrase “regulatory standards” to assert in the Draft EIS/EIR that “an open connection between [Southeast Area B] and Ballona Creek as would occur under Alternative 10 would preclude these mitigation functions, resulting in a violation of legally enforceable obligations associated with the Playa Vista development” created some confusion. Draft EIS/EIR Section 2.3.6 has been revised to delete the relevant text. Deletion of this as a reason not to carry Alternative 10 forward for detailed review does not affect the outcome: of the remaining reasons, any one of which would be enough.

### ***Alternative 11: 19th Century Wetlands***

CDFW received comments expressing a preference for full, detailed analysis of Alternative 11. Alternative 11 is described in Draft EIS/EIR Section 2.3.7 and analyzed relative to the screening criteria. Alternative 11 was not carried forward for more detailed review because it would not meet most of the basic objectives of the Project, would not avoid or substantially lessen significant impacts of the Project, and would not be feasible.

As mentioned in Draft EIS/EIR Sections 2.3.6 and 2.3.7, and in Section 2.2.3.3 of this Final EIR, returning the Project Site to historic conditions is not practicable or feasible. Historical processes can inform restoration planning, but often wetlands have suffered so much disturbance and development over time that they will never exhibit all the same functions and services that existed during the 19th century. The hydrological conditions of the Ballona Reserve and the Ballona Creek watershed are very different today than those present in the late 19th century, especially due to the construction and maintenance of the Ballona Creek Flood Control Channel, Marina del Rey harbor, and the highly modified nature of the watershed supporting the Ballona Reserve today. Restoring Ballona Creek to a seasonally closed lagoon system is not feasible because the Ballona Creek Flood Control channel is designed to have a permanent opening between Ballona Creek and the ocean. Furthermore, the Marina del Rey boat harbor is designed and maintained for navigation, with a jetty and breakwater system and maintenance dredging program at the harbor entrances. In conjunction with the Ballona Creek channel and jetty system, the harbor entrance configuration and maintenance dredging prevent longshore coastal sand transport from closing the mouth of Ballona Creek. Ultimately, creating a closed system at Ballona would conflict with existing flood risk management and corresponding public safety needs, as well as existing navigational needs.

Some of the impacts to the Ballona Reserve over time include: Approximately 3 million cubic yards of marine sediment dredged to build Marina del Rey harbor and deposited into the Ballona



wetlands; straightening and armoring of the Ballona Creek Channel; construction of the Ballona Creek levees, disconnecting the creek from its historic floodplain; dumping and fill placement associated with the construction of the Ballona Creek levees, Culver and Jefferson Boulevards, and the Marina Freeway; construction of little league ballfields and associated infrastructure in Area C; agricultural practices; and surrounding community development. See also Section 3.1 of the Conceptual Habitat Restoration and Adaptive Management Plan (Draft EIS/EIR Appendix B3), which discusses target habitat composition and expected development. It explains that re-creation of historical conditions within the Ballona Reserve is not possible due to existing constraints such as those imposed by the surrounding development, the highly modified nature of the watershed supporting Ballona Creek, existing conditions within the Ballona Reserve, and projected impacts related to global climate change.

### ***Alternative 12: Acquisition Rather Than Restoration***

CDFW received comments expressing a preference that the Project should focus on acquiring additional land to increase the size of the Ballona Reserve (as would occur under Alternative 12), rather than restoring the existing sites. Alternative 12 is described in Draft EIS/EIR Section 2.3.8 and analyzed relative to the screening criteria. Alternative 12 has not been carried forward for more detailed review because it would not meet most of the basic objectives of the Project and is not feasible.

#### **2.2.3.5 What is the Preferred Alternative?**

Some comments indicated that clarification about the “preferred alternative” would be helpful. CEQA does not require the identification of a “preferred alternative,” which is a NEPA concept (40 C.F.R. §1502.14(e); 46 Fed. Reg. 18026-01; *Washoe Meadows Community v. Department of Parks & Recreation* [2018] 17 Cal.App.5th 277, 289). Because clarification of this concept is outside CDFW’s purview. Nonetheless, CDFW anticipates that the Corps will address questions relating to the Preferred Alternative in a Final EIS.

#### **2.2.3.6 What is the Environmentally Superior Alternative?**

CDFW has determined that Alternative 1 is the Environmentally Superior Alternative. See Final EIR Section 3.2.7 for more detail regarding CDFW’s determination.

### **2.2.4 General Response 4: Drains**

In or around 1996, Maguire Thomas Partners, Playa Capital’s predecessor-in-interest, installed two drains (underground drainage pipes with surface risers designed to drain ponding water to the Ballona Creek channel) around the same time that it constructed the Freshwater Marsh. These two drains are connected to the outfall pipe from the Freshwater Marsh to the Ballona Creek. One of the drains extends approximately 6 to 8 inches above grade and the other drain is approximately at grade. CDFW acquired the property in 2003 and 2004, which was later designated as an ecological reserve. The drains did not rise to CDFW’s attention until 2013 when Coastal Commission staff sent a letter concerning the drains to Playa Capital. In its letter, Commission staff informed Playa Capital that it was in violation of the California Coastal Act



because permits for the Freshwater Marsh did not include the two drains. Approvals for the drains from the Corps and City of Los Angeles had no bearing on Commission staff because they were evaluating the drains under the Coastal Act.

After receiving the 2013 letter, CDFW considered the drains and determined that removing them at that time was a low priority. The following informed CDFW's determination: there was more wetland-associated vegetation around the risers at the time of the letter as compared to when the drains were installed, the drains' relatively small size, the lack of evidence or any indication that the drains were in fact having a measurable negative effect on the Ballona Reserve's ecological values, and that CDFW intended to remove the drains as part of the restoration as analyzed in the EIR. Having capped the drains, CDFW considers their removal prior to restoration as analyzed in the EIR even lower priority so as to avoid disturbing the Ballona Reserve unnecessarily (i.e., disturbance during removal of drains and later disturbance during Project implementation).

As indicated in biological reports submitted to the Coastal Commission, a 1990 survey revealed that all of this area at some time had been disturbed, and much of it had been used for agriculture. According to the 1990 survey, vegetation in the vicinity of the risers consisted of either roadside weeds with the only native species being weedy upland species of wide occurrence, and areas dominated by *Brassia*, a non-native upland species. Vegetation around one drain is still non-native weedy vegetation. Around the other drain, there is a mix of weedy species and some patches of wetland-associated species growing in disturbed areas where black mustard is less prevalent. As summarized in a biological memo, "the drains have not resulted in loss of wetland habitat or function – in fact the opposite has occurred in the area south of Culver Blvd., where pickleweed is significantly more abundant now compared to conditions in 1990."

It was thus unsurprising that a hydrological memo related to the drains determined that they "have not affected the hydrology of the area in any appreciable way." Specifically, during a 100-year storm event, approximately 53 cu-ft. of the 122,600 cu-ft. of water that would collect near the drains would enter them (i.e., 0.04 percent of the available surface water would enter the drains).

Still, in 2016, Grassroots Coalition sued Playa Capital and CDFW for their alleged violation of the Coastal Act related to the drains. The litigants settled the lawsuit and as a result CDFW submitted an application to the Coastal Commission to cap the two drains. In December 2017, the Coastal Commission approved CDFW's application and directed CDFW to submit a second application to remove the drains. Shortly after the Commission's approval, CDFW plugged the weep-holes that perforated the drains and capped them with a water-tight seal thereby halting the *de minimis* amount of water from entering them. As shown in Draft EIS/EIR Figures 2-4 and 2-7, the two drains would be removed and replaced by the new levees and berms as part of the Project and Alternative 2. Clarifications have been added to the Draft EIS/EIR that the drains and related spur pipes would be removed (see Final EIR Section 3.2.4). The impacts of all work relating to both drains is accounted for as part of Alternative 1 on a resource-by-resource basis throughout Chapter 3 of the Draft EIS/EIR.

One of the comment letters received provides a substantial amount of background material regarding the construction of the drains, and the ensuing judicial and administrative processes.



CDFW has reviewed that material, and included it as part of the record of information to be considered as part of the decision-making process.

***The Draft EIS/EIR accurately described baseline conditions within the Project Site.***

CDFW received several comments about the “unpermitted” status of the drains as a violation of the Coastal Act following the public release of the Draft EIS/EIR. Among these, several comments suggested that the illegal condition that existed when CDFW’s NOP was issued affected the integrity of the environmental review process. These comments note that environmental conditions reflected an unnatural event: the absence of water that otherwise would have remained in Area B but for the drains but then the comments suggest that, after the passage of some unspecified amount of time, a new baseline must be set, new data needs to be collected, and new analysis must occur before the restoration proposals could be considered. As discussed above concerning the *de minimis* amount of water entering the drains and increase in wetland vegetation after installation of the drains, these comments appear to have been made without that critical information.

Consideration of the uncapped drains (in place) was described accurately in the Draft EIS/EIR as part of the baseline condition because they were present as part of the actual physical environment when the environmental analysis of the proposed restoration project began. See Draft EIS/EIR Section 3.4.2.2. Because the analysis appropriately considers the potential environmental consequences of the Project and alternatives relative to established baseline conditions, comments that suggest an error has occurred in this regard are inaccurate. See also CEQA Guidelines Section 15125(a) (“An EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published ... from both a local and regional perspective”); see also *Riverwatch v. County of San Diego* (1999) 76 Cal.App.4th 1428 (holding that the proper baseline is the existing condition of the site, even if that condition may be the result of prior illegal activity).

***Because the Draft EIS/EIR accurately characterized baseline conditions, additional hydrology studies or reports have not been prepared.***

Multiple comments request that new hydrological studies be conducted within the Ballona Reserve to determine what harm has accrued, and how to mitigate that damage and restore the freshwaters within the Project Site. These comments appear to have been made without knowledge of the biology and hydrology memos mentioned above, which determined the drains have had no measurable effect on the Ballona Reserve. Moreover, extensive hydrological studies were performed within the Project Site and were relied upon in the EIR.

As detailed in Draft EIS/EIR Section 3.9.5.2, hydraulic modeling was a primary analytical tool used to evaluate and predict the potential impacts of the proposed restoration on water levels, velocities, and sediment transport during storm events. The results of the hydraulic modeling were presented in Draft EIS/EIR Appendix F7 and the Hydraulic Modeling Addendum prepared in 2015 (Draft EIS/EIR Appendix F8). A separate sediment dynamics transport analysis was prepared (see Draft EIS/EIR Appendix F10; see also Draft EIS/EIR Appendix F7). A geomorphic analysis also was performed to assess how the site would develop and evolve over time to look more directly at

scour and deposition on the marsh. The sediment budget brought together the sediment transport model results with the geomorphic analyses to determine the volume of sediment moving through different parts of the system. Therefore, contrary to the suggestion in comments, extensive hydrological studies were performed and used to evaluate the potential impacts of the Project. Because the baseline condition was accurately characterized, the extensive hydrological studies that have been performed within the Project Site and relied upon in the EIR are both accurate and adequate for purposes of the analysis, and the requests for more or different hydrology study do not suggest that the analysis provided is inadequate or inaccurate.

Related comments suggest that the identification and capping of the drains constitutes significant new information, requiring recirculation of the EIR with potentially new alternatives being considered. This also is not the case. As mentioned above, the uncapped drains have had no measurable effect on the Ballona Reserve from either a biological or hydrological perspective. So it is unclear how identifying or capping the drains could result in significant new information that would require recirculation of the EIR.

Questions submitted about why the “unpermitted drainage” continued following the identification of the issue are beyond the scope of the EIR, which is tasked by CEQA with analyzing the environmental consequences of the proposed restoration.

## 2.2.5 General Response 5: Biological Resources

### 2.2.5.1 General Biological Resources

Multiple comments were received that included photographs of common or special-status plant or wildlife species, referred to photographs provided by others, and that identified specific species within the Project Site, such as Palmer’s goldenbush, lichens, and bryophytes.

A shared characteristic of these and similar comments mentioned below, is that they seem to imply that the EIR does not sufficiently analyze impacts to various types of common species (more detail below). However, none of the commenters provides any detail as to how the common species would be affected or what such impact would be. As a result, CDFW continues to focus its analysis on plant and wildlife species that have special regulatory or management status with potential to occur within and adjacent to the Project Site, see e.g., the threshold of significance for Impact BIO-1, which is whether the Project would “[h]ave a substantial long-term, adverse impact, either directly or via habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the CDFW, USFWS, or NMFS.” Species with special status are, by definition, more vulnerable to population declines and extirpation (localized extinction), and encounter recovery difficulties not typically experienced by common species. For a sensitive or special-status species whose remaining habitat is limited, a small project-related habitat impact may represent a substantial reduction of habitat. Conversely, a somewhat large habitat alteration may have minor effects on common species because the species’ range is much larger, local source populations are often present nearby to recolonize a site, and common species are generally resilient compared to sensitive or special-status species. As such, common species typically more readily



reestablish themselves following disturbance. It is also worth noting, although it's not definitive, that CEQA's Appendix G threshold of significance Part IV.a. similarly focuses on special status species as opposed to common species. Ultimately, CDFW is not aware of any information indicating that any of the common species mentioned in the comments are experiencing circumstances which differentiate those common species at the Ballona Reserve from the same common species in other places. And because "CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation," CDFW believes it has made a good faith analysis and disclosure of the Project's potentially significant effects on biological resources at the Project Site.

### ***Baseline for Common Terrestrial Wildlife Species***

Several individuals provided photographs of common wildlife species, with some of the pictures taken at the Ballona Reserve. The presence of these common wildlife species is acknowledged in the Draft EIS/EIR and does not update or change the conclusion of the analysis. Photographs of such species include a California kingsnake, desert cottontail, and a "skink" and "checkered whiptail lizard," per the photo annotations, that may be woodland alligator lizards. Common ant and ant-like species fall under the category of common wildlife species. Such comments do not reflect a deficiency in the EIR and are acknowledged as supplemental information about the baseline conditions described in Draft EIS/EIR Section 3.4.2.

### ***Baseline for Special-Status Terrestrial Wildlife Species***

Many individuals submitted comments related to the presence or potential presence of common or sensitive biological resources at the Ballona Reserve. Some of the comments identified plants or wildlife by name, others provided photographs with captions, and still others provided photographs of unnamed plants and wildlife or referenced websites with such photographs. Draft EIS/EIR Section 3.4, *Biological Resources*, provided a comprehensive analysis for each of the special-status plants and wildlife species with potential to occur on-site. In cases where information provided by the commenter was not previously or otherwise available, such as for the historic documentation of coast horned lizard on-site, the Draft EIS/EIR has been updated in Chapter 3 of this Final EIR to reflect the new data.

The potential presence and distribution of most special-status plant and wildlife species that have been cited as "present" at the Ballona Wetlands by commenters is discussed in the Draft EIS/EIR on the pages identified in Table 2-2, *Locations of Species' Descriptions in the Draft EIS/EIR*. Such comments provide either a special-status species name or photograph, with no new information related to species distribution or impacts. One comment asks for the review of all of Jonathan Coffin's photographs taken at the Ballona Wetlands over the last 10 to 12 years. The comments addressed by this response provide images of common or special-status plants and animals that may occur in the Ballona Reserve area. None of these comments reflects a deficiency in the EIR. They are, however, acknowledged.

**TABLE 2-2**  
**LOCATIONS OF SPECIES' DESCRIPTIONS IN THE DRAFT EIS/EIR**

Species Name	Draft EIS/EIR Location	Species Name	Draft EIS/EIR Location
Lewis' evening-primrose	Section 3.4	Monarch butterfly	Section 3.4
Wandering skipper butterfly	Section 3.4	Orcutt's yellow pincushion	Section 3.4
South coast marsh vole	Section 3.4	Slender arrow-grass	Not cited in botanical surveys or Draft EIS/EIR; not special-status.
Silvery legless lizard	Section 3.4	Suffrutescent wallflower	Section 3.4
Southern tarplant	Appendix D3	Alkali barley (not special-status)	D14-72; unidentified barley in Appendix D3.
Southern California ornate shrew	Section 3.4	Woolly seablite	Section 3.4
Grasshopper sparrow (nesting sites protected)	Appendix D5	Slender salamander (not special-status)	Section 3.4
California horned lizard	Discussed in response I18-4.	California kingsnake (not special-status)	Section 3.4
Western sand spurrey	Not cited in botanical surveys or Draft EIS/EIR; not found south of Humboldt County.	Loggerhead shrike	Section 3.4
Southern marsh harvest mouse (not special-status)	Section 3.4	Western meadowlark	Section 3.4
Cooper's hawk	Section 3.4; Appendix D5	Northern harrier	Section 3.4
Double-crested cormorant (breeding)	Appendix D5	Great blue heron (breeding)	Section 3.4
Oregon vesper sparrow	Appendix D5	Great egret (breeding)	Section 3.4
Wigeon grass (not special-status)	Appendix D5	Snowy egret (breeding)	Section 3.4
Spiral wigeon grass (not special-status)	Not cited in botanical surveys or Draft EIS/EIR; not special-status.	Black-crowned night heron	Section 3.4
Vernal barley	Appendix D11. Presumed Absent. Historically present in the study area but not observed since 1901.	Western pony's-foot (not special-status)	Appendix D14
South coast branching phacelia	Section 3.4; Appendix D5	Burrowing owl	Section 3.4
California brown pelican	Section 3.4	Ferruginous hawk	Appendix D5
American peregrine falcon	Section 3.4	White-tailed kite	Section 3.4
Least Bell's vireo	Section 3.4	Belding's savannah sparrow	Section 3.4
Ridgway's rail	Section 3.4		

### **Potential Presence of Palmer's Goldenbush**

Several comments cite the “detection” of a non-listed special-status plant, Palmer’s goldenbush (*Ericameria palmeri* var. *palmeri*), by Jonathan Coffin and then confirmed by Robert Roy van de Hoek, that is not identified by the Draft EIS/EIR. The supporting information for this species record is a November 27, 2017, *Los Angeles Times* article that was submitted with one of the comments. Both the submitted comments and supporting newspaper article lack credible first-



party confirmation that the identified plant is Palmer's goldenbush. Numerous elements of the *Los Angeles Times* article reveal that the suspected rare plant identification is unconfirmed and may be inaccurate. Notably, plant specimens have not been provided to or confirmed by experts cited in the article: specifically, botanists at the California Native Plant Society (CNPS), U.C. Riverside, and the Herbaria at U.C. Berkeley. Confirmation of the plant identity and its location within the Ballona Reserve, which is necessary for independent confirmation, have not been provided to CDFW or as supporting information for the comments. Further, according to the CNPS, Palmer's goldenbush is only known to occur within San Diego County. The Calflora database indicates there are no documented or specimen records of Palmer's goldenbush in Los Angeles County. Even the closing statement of the *Los Angeles Times* article also brings the species identification into question, in which Mr. van de Hoek states, "Of course, someone else might have a different opinion" (regarding the species identification). In the absence of definitive species confirmation, the claim of Palmer's goldenbush presence at the Ballona Reserve remains unsupported and this species is presumed absent from within the Project Site.

### ***Impacts to Common Plant Species, including Lichens, and Bryophytes***

Several comments cite the presence of non-special-status plant species, lichens, and mosses at the Ballona Reserve that could be impacted by the Project. Draft EIS/EIR Appendix D3 provides a comprehensive list of plant species identified at the Ballona Reserve from 1981 to 2011. Such common plant species include the common alkali barley, which was likely labeled as "unidentified barley" in Draft EIS/EIR Appendix D3. Two comments referenced photographs of non-sensitive lichens, mosses (bryophytes), and fungi at the Ballona Reserve; citing that the Project would remove lichens growing on the concrete south levee concrete wall that occur nowhere else in the world. No locally occurring lichens, mosses, or fungi are recognized or protected by the federal, state or local governments in the project region. Additionally, CDFW is not aware of any rare lichens, mosses, or fungi that would be impacted by the Project or alternatives. Impacts to common and non-special-status plant species that occur within in the Project Site, including lichens and mosses, are considered less than significant.

### **2.2.5.2 Invertebrates**

CDFW received multiple comments regarding invertebrates. Some among them suggest that Draft EIS/EIR Section 3.4 does not adequately describe existing conditions for native bees and ants; that the Project would impact native *Agapostemon* bees, which are soil-nesting pollinators common to Area A; and harvester ants. One comment asks if native ants and bees that live in soils at Ballona are ignored because they are not considered important to protect. Other comments focus on common insect and spider species, including native ant populations, dragonflies, damselflies, and butterflies, and suggest that they are not adequately accounted for in Draft EIS/EIR Section 3.4 and will not all come back after the Project. Regarding butterflies, comments note that the endangered El Segundo blue butterfly is present in the Ballona Reserve and that recent monarch butterfly population surveys suggest populations of this species are in decline on the West Coast. Eucalyptus trees at the Project Site are important and provide a resting area for this species during its migration, and monarchs may take refuge in sycamore trees, if planted on-site. Responses regarding each of these topics are provided below.

### ***Baseline for Common Terrestrial Invertebrates***

Several comments suggest that Draft EIS/EIR Section 3.4 does not adequately discuss existing conditions related to common spiders and insects, including native bees, dragonflies, damselflies, butterflies, and ants, and ask why native bees and ants are not discussed in greater detail. As summarized in Draft EIS/EIR Section 3.4, the analysis includes extensive baseline surveys that have been performed for benthic (aquatic) and terrestrial invertebrates at Ballona since 1980, including focused surveys between 2009 and 2014. Draft EIS/EIR Appendix D4, *Benthic Invertebrate Studies*, and Draft EIS/EIR Appendix D6, *Terrestrial Invertebrate Studies*, summarize the benthic and terrestrial invertebrate studies conducted at the Project Site, including sample locations, and survey results. Survey reports included in the project record include Nagano (1981) and Mattoni (1991), which document the presence of hundreds of common arthropods species, including ants, butterflies, spiders, dragonflies, damselflies, and bees, including Agapostemon bees. Hence, an extensive baseline was gathered concerning common invertebrate species on the Project Site, and provided in the project record.

Many of the insects and invertebrates found at the Ballona Reserve are regionally common and occur throughout natural communities within and adjacent to the Reserve. Such species are also expected throughout local open space areas such as coastal strand habitat and undeveloped lands near Los Angeles International Airport. There are extensive open space areas both within and adjacent to the Ballona Reserve that are within the movement capabilities of many mobile insect species. Based on the movement capabilities of many common species and their ability to recolonize areas following disturbance. The 1981 survey by Nagano et al. entitled, “the Insects and Related Terrestrial Arthropods of Ballona,” as cited in the Draft EIS/EIR, provides a comprehensive accounting of insects and arthropods that occur at Ballona and in the adjacent, coastal dune areas and on the shoreline of the Ballona Creek channel. Much of the insect life that was described was representative of the coastal strand and the Los Angeles Basin; many widespread and common types adapted to fallow fields and vacant lots. Nagano, et al., considered the most diverse areas to be the sand dunes located at the west end of West Area B (termed the “extreme west end of Unit 1” in the report). As described in Draft EIS/EIR Chapter 2, only limited grading is proposed in this area. Hence, it is expected that the sand dune area that is largely west of and outside of the project area, and other areas on the fringe of the Ballona Reserve, will serve as a repository for common insects and arthropods. Following site restoration, it is expected that these areas will facilitate the reestablishment of common insect and arthropod species on the site following each phase of construction. No other special populations of insects are known or described from the Ballona Reserve. On this basis, it is expected that common insect and arthropod species will have a direct and immediate means to populate and disperse throughout the Reserve during and following site restoration. As a result, and as mentioned above, CDFW focused its analysis on special-status invertebrates because any impact to such common invertebrates would be less than significant.

Given that common insects are expected to naturally recolonize the site, the impact discussion in Draft EIS/EIR Section 3.4 appropriately focuses attention on special-status invertebrate species because special-status species populations are, by definition, vulnerable to population declines and extirpation (localized extinction), and encounter recovery difficulties not experienced by common invertebrate species.



For a special-status species whose remaining habitat is limited, a small Project-related habitat impact may represent a substantial reduction of habitat. Conversely, a somewhat large habitat alteration may have minor effects on common invertebrate species because the species' range is much larger, local source populations are often present nearby to recolonize a site, and common invertebrate species are generally resilient compared to special-status species. As such, these species more readily reestablish themselves following disturbance. CEQA thresholds of significance do not protect most common (i.e., non-special-status) terrestrial insect and arthropod species. It is anticipated that habitat for these common invertebrate species will be available throughout much of the Project Site during and following implementation of the Project, and most species are expected to recover following the implementation of restoration activities. Additionally, phasing of the Project such that areas are allowed to recover prior to the implementation of the following phase would help retain much of the invertebrate biodiversity on the site.

### **Crotch's Bumble Bee**

The Crotch's bumble bee (*Bombus crotchii*) became a candidate for listing under the California Endangered Species Act (CESA) on June 12, 2019, when the California Fish and Game Commission voted that listing it may be warranted. CDFW is preparing a review of the species' status and once that is finalized, it will be communicated to the Fish and Game Commission.

When the Notices of preparation (NOPs) were issued (July 26, 2012, and revised January 29, 2013) and Draft EIS/EIR was published (September 25, 2017), the Crotch's bumble bee was considered a common bumble bee species with no federal or state protections. Thus, at the time the NOPs were issued and when environmental analysis commenced, Crotch's bumble bee was not listed nor did CDFW have a reasonable expectation that it would become a candidate for listing.

A survey in 1981 (Nagano et al., 1981) stated that the Crotch's bumble bee occurred in weedy fields, transitional pickleweed, and sand dunes at the Ballona Reserve. Based on the Nagano survey, Hawks Biological Consulting survey (1996), and the presence of suitable habitat for the bee at the Ballona Reserve, CDFW has determined that there is a low to moderate likelihood that Crotch's bumble bee may occur in areas of the Ballona Reserve.

If present, the bee may be subject to direct impacts, principally habitat displacement, during restoration phases and from future access and management post-restoration. It is foreseeable that activities proposed during the restoration and operational stages of the Project could lead to the inadvertent mortality of adult and/or larval bees of this now "candidate" species.

Most bumble colonies are small with nests commonly lasting one season. Queens will mate towards the end of the season and then hibernate, and the rest of the colony will die. Crotch's bumble bee is considered a generalist forager that feeds on a diverse suite of pollen and nectar resources, reportedly visiting a wide variety of flowering plants. The listing petition finds that the food plants most commonly associated with Crotch's bumble bee observations or collections from California include plant families Fabaceae, Apocynaceae, Asteraceae, Lamiaceae, and Boraginaceae, as well as Labiatae (=Lamiaceae), Hydrophyllaceae (=Hydrophyloideae), and



Asclepiadaceae (=Asclepiadoideae). While suitable food plants are presently known to occur throughout the Project Site (e.g., plant species from the previous mentioned plant families) and surrounding area, following restoration the Ballona Reserve would continue to support and expand upon a host of suitable native nectar sources for this species. Little is known about this species' overwintering sites, though they are thought to overwinter in soft, disturbed soil or under leaf litter (Williams et al. 2014). Given the broad foraging capabilities of this species, the Ballona Reserve would provide foraging and nesting habitat for the Crotch's bumble bee during all phases of restoration and operation, under the Project and all alternatives.

By expanding on the foraging habitat for Crotch's bumble bee, the proposed restoration also implements the listing petition's management recommendation that habitat should be protected and managed to the benefit of the species. The petition states "[t]o rebuild populations of [Crotch's bumble bee], habitat should be restored within the bee's historic ranges." The Project proposes to do just that.

Furthermore, the proposed restoration is consistent with the "General Guidelines for Bumble Bees" as identified in the listing petition including but not limited to:

1. Creating high-quality habitat including:
  - a. Careful selection of plants beneficial to bumble bees; and
  - b. Nesting and overwintering habitat including retaining landscape features that support rodent populations;
2. Limited use of pesticides/herbicides:
3. Mowing guidelines such as:
  - a. Leaving large patches unmowed;
  - b. Creating a structural mosaic; and
  - c. Mowing at height to prevent disturbance of established nest or overwintering queens.

Under any of the alternatives (other than Alternative 4, No Project Alternative) it is expected that there would be additional higher quality habitat for Crotch's bumble bee post-restoration compared to existing conditions. Following restoration, the Ballona Reserve would support a greater amount of native species that serve as food plants for the bee and, thus, would provide relatively higher quality habitat, which would be beneficial for this species in the long term.

Not only would restoration provide additional higher-quality habitat for the bee, but it would also avoid the most suitable existing habitat. According to Nagano (1981), the most suitable habitat would likely be in West Area B, but the bee was also noted in Southeast Area B. The Project retains much of the Crotch's bumble bee prime habitat by avoiding the dune areas that occur in West Area B and Southeast Area B. Therefore, based on past surveys indicating the low to moderate likelihood of the bee's presence, avoidance of habitat previously identified as supporting the bee, consistency with management recommendations from the listing petition, and the expansion of higher-quality habitat, any impacts to Crotch's bumble bee would be less than significant.



Nevertheless, and even though the species has not been observed on site since 1996, CDFW will conduct presence/absence surveys for the species prior to start of restoration activities. If a nest is located in an area that would be affected by restoration activities, CDFW will either create a buffer to avoid the nest or relocate the nest to a suitable area of the Ballona Reserve that would not be affected by restoration activities. Prior to any decision related to creating a buffer or relocating a nest, CDFW will consult, and rely on, the best available science at that time to inform the decision (including communicating with experts). Such updated science related to relocation could include but not be limited to information pertaining to delaying relocation as long as possible so that queens have a chance to emerge, relocating within their existing home range so nectar sources are familiar, relocating in the evening when bees are resting, and keeping the nest upright and level so not to spill nectar pots which are critical resources for the bees. CDFW has limited experience managing Crotch's bumble bee, and as a result anticipates refining its management actions as the listing process continues, the science develops, and the circumstances require. As a result, the measures CDFW is implementing for its own restoration project on CDFW's designated ecological reserve could be unique.

If the bee is observed as contemplated in the paragraph above, monitoring for detection of Crotch's bumble bee post-restoration would occur as part of BIO-3 through vegetation monitoring, scheduled patrols, and other routine daily operational activities at Ballona Reserve. Depending on the monitoring results, CDFW will close and reroute public access, retain leaf litter, and augment habitat with pollinators as appropriate to ensure that take of the species is avoided.

### ***El Segundo Blue Butterfly***

Several comments identify that the endangered El Segundo blue butterfly is present at the Ballona Reserve. The presence of this species is acknowledged in Draft EIS/EIR Section 3.4.2, which describes focused survey findings conducted for this species in 2013, 2015, and 2016.

One comment expresses concern regarding potential flooding impacts on El Segundo blue butterfly habitat that occurs west of West Area B, outside of the Project Site, and states that inundation of butterfly pupae in soils should be considered a significant Project impact. As discussed in the Draft EIS/EIR and illustrated in Figure 3.4-5, focused surveys have delineated occupied and potential El Segundo blue butterfly habitat in upland dune areas west of West Area B, outside the Project Site. As shown in Draft EIS/EIR Figure 3.9-11, the dune areas that support this species would not be inundated by even an extreme 100-year flooding event. Because there is no potential for dune areas that support El Segundo blue butterfly to be accidentally or intentionally flooded, potential flooding impacts to immature butterflies were not identified or presented in the Draft EIS/EIR.

### ***Monarch Butterflies***

Several comments provide a press release and survey data from the Xerces Society, which indicates that the California coast population of monarch butterfly is in decline. Additional comments state the presence of eucalyptus trees and milkweed on the Project Site, which are used by monarch butterflies. Draft EIS/EIR Section 3.4.2 recognizes the presence of monarch

butterflies, which may roost in eucalyptus grove in Area B, and forage throughout the Project Site; and the presence of narrowleaf milkweed in Area C, which is used as a larval host plant. As analyzed in Draft EIS/EIR Section 3.4.6, no significant impacts to monarch butterfly roosting habitat are anticipated since the eucalyptus grove is situated approximately 4 to 10 feet above the marsh plain and is not expected to be impacted by anticipated altered hydrological conditions. For these reasons, the suggested provision of additional roosting habitat by planting sycamore trees is not warranted. Additionally, following site restoration, upland habitats throughout the Project Site would be enhanced as habitat for monarch butterfly through inclusion of monarch butterfly host plant, milkweed, in the upland seed mix.

### **2.2.5.3 Reptiles and Amphibians**

CDFW received multiple comments suggesting that the (silvery) legless lizard is present at the Project Site or that this species occur regionally in other areas of Los Angeles. Comments also note the presence of harvester ants in the Project Site, note that they are a food source for coast horned lizard, and ask if their presence affects the recovery of the coast horned lizard. Comments about the coast horned lizard note that it has potential to occur, is reported as present, or has been anecdotally observed in North Area C. Further, another suggests that several animals that were not identified at the Project Site should be there, including San Diego horned lizard and California pond turtle.

#### ***Presence of Silvery Legless Lizard***

Several comments identify that legless lizards are present at the Ballona Reserve. The potential presence of silvery legless lizards is acknowledged in the discussion of existing (baseline) conditions in Draft EIS/EIR Section 3.4.2. Surveys cited in the analysis identified this species in the restored, stabilized dune habitat in West Area B and in the stabilized dune habitat of Southeast Area B. The Draft EIS/EIR presumed the presence of this species in all portions of the Project Site that provide potentially suitable habitat, as shown in Draft EIS/EIR Figure 3.4-10, Silvery Legless Lizard Habitat.

#### ***Potential Presence of Coast Horned Lizard***

Some comments anecdotally describe a historic occurrence of coast horned lizard in the Project Site, in association with cardboard debris in North Area C. The San Diego horned lizard is synonymous with the coast horned lizard; and also is mentioned in comments as present. No other information is provided by the authors of these comments on the specific location or date of the occurrences, except that the sighting was prior to site purchase by the State. As stated in Draft EIS/EIR Section 3.4 and Appendix D12, the coast horned lizard is considered to have a low likelihood of occurrence within the Project Site based on: generally poor quality habitat, the Site being dominated with Argentine ants (a non-native insect that is not the species' preferred food source), the absence of detections during focused surveys (see Draft EIS/EIR Appendix D8, Table D8-1 for list of surveys in 1981, 1991, 1996, 2007, 2009, 2010, and 2011), and the absence of reported sightings at the Ballona Reserve. The historic observation of coast horned lizard in North Area C, if authentic, suggests a moderate likelihood that this species may potentially be encountered in North Area C and other portions of the Project Site. North Area C would be



graded under Alternatives 1 and 2, potentially exposing any coast horned lizards present to restoration-related injury or mortality, and temporarily removing habitat for this species. North Area C would not be graded under Alternative 3, but coast horned lizards could potentially be encountered elsewhere within the Project Site, if present in the Ballona Reserve. Project Design Features BIO-1 (WEAP) and BIO-2 (Limit of Disturbance), and Mitigation Measure BIO-1b-ii (Biological Monitoring) would be in place and would help protect the coast horned lizard, if present. If this species is encountered in North Area C or elsewhere within the Project Site, CDFW would halt any activity that may adversely impact the encountered species, as identified in Mitigation Measure BIO-1g-i, a qualified biologist shall resurvey potential habitat areas to identify coast horned lizards and relocate individuals to preserved dune habitats or other suitable habitat areas as directed by CDFW. Draft EIS/EIR Section 3.4 has been updated to reflect the potential presence of coast horned lizard in the Project Site.

### ***Potential Presence of Western Pond Turtle***

One comment expresses concern that the California pond turtle, synonymous with the western pond turtle, was not identified during surveys. As stated in Draft EIS/EIR Section 3.4.2, the western pond turtle is considered to have a low likelihood of occurrence within the Project Site based on generally poor quality habitat across the site, species absence during focused wildlife surveys, and the historic absence of sightings at Ballona. As such, no impacts are anticipated to this species.

### **2.2.5.4 Belding's Savannah Sparrow**

Comments received by CDFW regarding the Belding's savannah sparrow are summarized here. Responses to each topic are provided below. CDFW received comments noting, consistent with information disclosed in Draft EIS/EIR Section 3.4.2, that the Belding's savannah sparrow is present at the Ballona Reserve and nests in Area B and forages in Area A; asking why regular bird surveys were not performed for California gnatcatcher and Belding's savannah sparrow in Area A; and noting that the listing status of Belding's savannah sparrow as endangered means that it cannot be legally moved. Related comments note that, following stabilization of the tide gates in the 1990s, that the population of this species has risen from about a dozen birds in 2009 to nearly 100 in 2015.

Comments about potential impacts to this species acknowledge that the proposed alteration of Area A would impact foraging areas already used by Belding's savannah sparrow and remove some current nesting habitat in Area B, and ask why habitat in Area A is proposed for removal. Mitigation Measure Bio-1i-ii requires created habitat for the species to meet specified criteria, including a requirement that one nesting pair of Belding's savannah sparrow to be present in Area A before the implementation of Phase 2 could begin. Regarding the one-nesting-bird component of the mitigation measure, CDFW received recommendations that the criterion should be either five nesting pairs and use of Minimum Viable Population principles to reach an estimate of the number of nesting pairs needed for a sustainable population in Area A before Phase 2 is initiated, or should use an approach that maintains the average historical number of nesting sparrows during restoration.

One commenter disagreed with a literature source cited in the Draft EIS/EIR (Dock and Schriber, 1981) that pickleweed in Area A would decline to the point that the area was uninhabitable by Belding's savannah sparrow; citing that sparrow numbers rebound in average rainfall years. They offer CDFW an explanation for a standard of habitat health based on rainfall. Another commenter asked where the disclosures are for Belding's savannah sparrow using the south levee, and asked what the impacts will be to this species when the levee is removed.

### ***Species and habitat use***

The occurrence of Belding's savannah sparrow is well-documented at the Ballona Reserve, as described in Draft EIS/EIR Section 3.4.2. Surveys cited in the section describe that the population increased from 11 pairs to 48 pairs from 1998 and 2015. As shown in Draft EIS/EIR Figure 3.4-12, foraging and nesting are well documented in Area B, including on portions of the south levee near West Area B. The Belding's savannah sparrow nesting survey estimate is comparable to information provided in comments that the area supported a "dozen birds in 2009 to nearly 100 in 2015." The baseline population numbers and distribution of Belding's savannah sparrow described in Draft EIS/EIR Section 3.4 agree with the species accounts provided by commenters, whose input does not identify any inaccuracy or inadequacy in the EIR.

One comment asks why regular surveys were not performed in Area A for California coastal gnatcatcher and Belding's savannah sparrow, and cites Dan Cooper's 2010 survey that identified two sparrows in Area A in 2010. Dan Cooper's 2010 survey finding is included in Draft EIS/EIR Section 3.4. Focused surveys were performed for these species to characterize habitat and describe species distribution as allowed by available financing. Existing surveys that have been performed are considered adequate to estimate habitat use and describe potential impacts to these species.

One comment states that foraging habitat for Belding's savannah sparrow already exists in Area A, and asks why this area is slated for restoration when it is already being used by this species. As shown in Draft EIS/EIR Figure 3.4-12, the sparrow's use of Area A is very limited compared to usage seen in more suitable marsh habitat in Area B. Area A principally supports upland habitat that is unsuitable for Belding's savannah sparrow, except for intermittent and infrequent foraging excursions. The conversion of this area to primary breeding and foraging habitat will not impact sensitive savannah sparrow nesting areas, and will minimally affect sparrow foraging during restoration and recovery of Area A.

One comment asks where the Draft EIS/EIR discloses Belding's savannah sparrow use of the habitat on the south levee, and asks what the impacts to the sparrow would be when this area is subject to restoration. The presence of Belding's savannah sparrow in this and other areas is presented in Draft EIS/EIR Figure 3.4-12, which shows species use of the Project area based on focused survey findings and modeled habitat use. The impacts to this area under the Project are described in Draft EIS/EIR Section 3.4.6 in the context of Impact 1-BIO-1i, and include temporary loss of potentially suitable habitat for Belding's savannah sparrows due to removal of the south levee.



### ***The Project's threshold to begin Phase 2 work***

Multiple comments suggest that the requirement in Mitigation Measure BIO-1i-ii that one nesting pair of Belding's savannah sparrow need be present in Area A prior to initiation of restoration in Area B seems insufficient. Two of the comments request the use of Minimum Viable Population principles to determine the number of nesting pairs prior to moving into Alternative 1, Phase 2; another comment suggests five nesting pairs should be the trigger for moving into Phase 2; while yet another comment suggests an alternative approach that maintains the average historical number of nesting sparrow pairs in the Ballona Reserve throughout restoration. Common among these comments is their focus on just one component of the criteria for implementing Phase 2 of Alternative 1 found in Mitigation Measure BIO-1i-ii, i.e., that one nesting pair be documented in Area A.

To better understand the trigger for moving forward with Phase 2 of the Project, it is important to consider the other components of Mitigation Measure BIO-1i-ii as well as the habitat that would be created by the Project. As detailed in Draft EIS/EIR Table 3.4-9, Phase 1 of the Project would result in a net increase of 67.3 acres of potentially suitable habitat for the Belding's savannah sparrow. In contrast, 10.2 acres would be impacted during Phase 1. With the completion of Phase 2, there would be an additional net increase (as compared to habitat at the end of Phase 1) of 2.3 acres of habitat for the species. Thus, with both Phase 1 and Phase 2, in total there would be a net increase of 69.6 acres of potentially suitable habitat for the species. Comparing created habitat to impacted, under the Project there would be 97.7 acres created compared to 28.1 acres impacted resulting in a 3.4:1 ratio, i.e., for every acre impacted, 3.4 acres is created. Of note, this habitat creation is in addition to another approximate 103 acres of habitat enhancement and functional lift of existing salt marsh, shown as potentially suitable habitat for Belding's savannah sparrow in Figure 3.4-12 of the Draft EIS/EIR.

However, rather than rely solely on habitat creation to move forward with Phase 2, Mitigation Measure Bio-1i-ii requires two things: "that the temporal and permanent loss of habitat in Area B will not have negative impacts on the species" and it be "demonstrated that the species is actively using restored tidal marsh and salt pan habitats in Area A and/or South Area B." Turning first to habitat impact, as mentioned above there would be a net increase of 69.6 acres of potentially suitable habitat for Belding's savannah sparrow with implementation of the Project. Mitigation Measure Bio-1i-ii further requires that the created habitat, at a minimum, double the amount of impacted suitable breeding habitat. The mitigation measure defines suitable breeding habitat as, "areas dominated by pickleweed with a hydrologic regime similar to that currently present in West Area B, with similar slope, inundation, and soil salinity." The mitigation measure also requires the "percent cover of pickleweed will approximate areas of West Area B, at a minimum of 60 percent cover." Thus, with implementation of Mitigation Measure Bio-1i-ii, CDFW would not rely solely on a 3.4:1 habitat creation to impact ratio, CDFW would also need to ensure that the created habitat meets specific criteria.

Turning next to Bio-1i-ii's requirement that it be demonstrated that Belding's savannah sparrow actively use the restored tidal marsh and salt pan habitats, the measure requires that one nesting pair be documented in Area A. As the measure explains, "due to rapid fluctuations in the population observed on-site, the high site fidelity observed, and avoidance of any impacts to the

majority of habitat in Area B, one nesting pair will be indicative of the successful establishment of suitable habitat for the species.” Thus, the one-nesting-pair requirement is not being used as a primary trigger for Phase 2 to commence nor as a mechanism to assess whether the population at the Ballona Reserve would be adversely affected by the Project. Rather the one-nesting-pair requirement is one of three mechanisms to help ensure the created habitat meets the suitability threshold for nesting for Belding’s savannah sparrow (the other two mechanisms being the quantity of breeding habitat and pickleweed coverage).

Ultimately, habitat creation is the focus by which impacts to habitat for the Belding’s savannah sparrow at the Ballona Reserve would be mitigated to a less than significant level. And Bio-1i-ii’s different components ensures sufficient habitat would be reestablished and/or created and suitable for the species. Nevertheless, Bio-1i-ii also requires “focused monitoring efforts ... to ensure that populations of these species either remain at preresoration levels or increase in size, and [implementation of] appropriate management efforts ... if populations of these species decline in size.” Draft EIS/EIR Appendix B3 provides an example of how Belding’s savannah sparrow at the Ballona Reserve would be monitored post-Area A implementation such as: following approved protocols, and in created, restored, and existing habitats. As explained in Draft EIS/EIR Section 2.2.2.6, restored habitat would be monitored for cover and invasive species control, and performance goals and adaptive management triggers would be further refined prior to Project implementation. So even though creation of suitable habitat is the mitigation measure’s focus, its monitoring requirements also account for the population considerations that some commenters raised.

Regarding the suggestions that more than one nesting pair be required to move forward with Phase 2 of the Project, CDFW considered the suggestions but could not determine what improvement to the mitigation measure would arise from requiring more than one nesting pair. One comment suggests using a minimum viable population (MVP) to establish criteria. MVP analysis and other modeling can be used to assist in management decisions, but their value is constrained by large uncertainty in model outcomes.<sup>24</sup> The suggestion to use five nesting pairs seems to be based on the idea that five nesting pairs represents the minimum recorded population prior to an increase in the bird’s population at the Ballona Reserve. Another comment suggests that the number of breeding pairs in created habitats should equal the number of pairs to be impacted by the Project. As mentioned above, the Project along with Mitigation Measure Bio-1i-ii is focused on creating suitable habitat rather than focusing on population numbers to mitigate impacts. Due to rapid fluctuations in the population observed on-site, the high site fidelity observed, and avoidance of any impacts to the majority of habitat in Area B, one nesting pair in the created habitat would be a signal (along with the other habitat criteria) that the habitat meets the suitability threshold for nesting. Still, as mentioned above, through focused monitoring and adaptive management, it is also CDFW’s opinion that the mitigation measure would help maintain the population at the Ballona Reserve, if not expand it, under Project conditions.

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<sup>24</sup> Flather et. al., 2011. Minimum Viable Populations: is there a “magic number” for conservation practitioners? June 2011.



### ***Pickleweed habitat decline over time***

One commenter disagrees with the Dock and Schreiber (1981) opinion cited in Draft EIS/EIR Section 3.4, that continued pickleweed habitat declines observed in Area A could lead to Belding's savannah sparrows no longer nesting there. The commenter states that Belding's savannah sparrow population numbers are a function of rainfall, and not habitat condition. The comment is noted; however, the use of the Draft EIS/EIR reference and subsequent discussion was to point out that the quality of pickleweed habitat in West Area B was in decline in the early 1980s, with continued observed pickleweed declines through 2015.

#### **2.2.5.5 Least Bell's Vireo**

CDFW received multiple comments regarding Least Bell's vireo relating to their presence, foraging and nesting success in Area B; nesting habitat in the riparian corridor and additional habitats in south Area B, which (comments suggest) are supported by freshwater and should be safeguarded from tidal inundation that could kill the plants; and noting that the species is nesting at Camp Pendleton without any bulldozing, and starting to expand their range to the north.

Draft EIS/EIR Section 3.4 acknowledges the presence of least Bell's vireo foraging and nesting activity, which is restricted to the far southeast corner of Area B. Commenters are correct that the associated riparian areas, principally willow habitat, where this vireo occurs at the Ballona Reserve are supported by freshwater inputs. One commenter states that freshwater marshes should be safeguarded from tidal inundation that could kill freshwater vegetation. Tidal channels in West Area B are located near existing willow habitat and the willows and cottonwood have persisted for many years with no indication of any negative effects. These tidal channels will be used as a reference for locating new tidal channels proposed as part of the restoration, in addition to other project design and final engineering, to ensure persistence of existing willow habitat in Southeast Area B. As shown in Draft EIS/EIR Table 3.4-10, none of the total 6.6 acres of vireo habitat would be permanently impacted during site restoration and 3.2 acres of additional habitat would be created that may support this species. This includes a new freshwater riparian corridor along Fiji Ditch in North Area C, which would expand habitat for this species into other portions of the Project Site. One commenter asks what CDFW is doing to encourage the expansion of least Bell's vireo within the Project Site. The retention of existing habitat and creation of 3.2 acres of additional habitat would help support the recovery of this species and encourage its expansion into other areas of the Ballona Reserve.

#### **2.2.5.6 Ridgway's Rail**

CDFW received comments about Ridgway's rail, including regarding its status as an endangered species; noting that a calling female of the species was heard within the Ballona Reserve in 2015 and 2016, although the Draft EIS/EIR only cites a 2016 observation; and suggesting that the EIR should be recirculated because it did not include the 2015 Ridgway's rail observation. Additional comments report that habitat for the Ridgway's rail was removed in 2016, and request a discussion of potential issues and conflicts that may arise related to vector control issues with the Ridgway's rail.



The federal and state listing status of this species as endangered (and State Fully Protected) is recognized in Draft EIS/EIR Section 3.4.2. Comments report that at least one Ridgway's rail was present at the Project Site in 2016, which supports the conclusion that habitat for this species occurs in portions of the Project Site. The presence of this species during a single historic year (2015) does not warrant recirculation of the EIR because this species was already presumed present by the analysis and documented in 2016. See General Response 7, *Recirculation* (Section 2.2.7), for additional detail.

The 2016 management of vegetation where the Ridgway's rail was observed is outside of the Project Site, on neighboring property not under the ownership or management of the Ballona Reserve, and is outside of the scope of the EIR, as are requests for identification of the specific dates when CDFW was notified of the Ridgway's rail presence. The EIR is charged with analyzing the potential environmental consequences of the Project and alternatives. The requested information, if provided, would not inform CDFW's consideration of the adequacy and accuracy of the analysis and so has not been provided.

The Ridgway's rail has not been identified within the Project Site, and no direct or indirect impacts to breeding rails are anticipated during construction. No other closely related past, present, and reasonably foreseeable probable future projects were identified with impacts to Ridgway's rail. The habitat management actions by the Los Angeles Vector Control District that may have removed habitat for this species were not analyzed as a cumulative project; however, the impacts of the Project would not cause or contribute to any cumulatively significant adverse impact on the local rail population because implementation of the Project would have only short-term adverse impacts and would have long-term beneficial effects. As described in Impact 1-BIO-1p, the first phase of the Project would construct 40.6 acres of Ridgway's rail habitat with a net increase of 38.6 acres of marsh habitat that would benefit this species due to restoration activities. Hence, the Project has minimal short-term impacts on Ridgway's rail with tangible benefits for this species. Viewed in context with any off-site habitat management actions by Los Angeles Vector Control District, habitat creation and by the Project would help offset any nearby unplanned habitat losses for this species.

As stated in Draft EIS/EIR Section 3.4.6 in the context of Mitigation Measures BIO-1b-ii (Biological Monitoring) and BIO-1i-i (Nesting Bird and Raptor Avoidance), focused surveys would be needed for any "construction or maintenance activities that may cause nest destruction or abandonment, such as vegetation or weed removal, earth work, and vector control actions." The approach identified in Draft EIS/EIR Section 3.4, which specifically provides biological surveys to identify active nesting sites, avoidance buffers around sensitive nesting areas, and biological monitoring during construction would avoid any potential conflicts with active Ridgway's rail nesting areas.

### **2.2.5.7 Burrowing Owl**

CDFW received multiple comments about burrowing owl, including those that identified the historic or current presence of burrowing owl within the Ballona Reserve and that provide input regarding impacts, mitigation, and alternatives. One comment further suggests that the Project



and restoration alternatives would adversely impact continued burrowing owl activity within the Project Site, including wintering activity that occurs on Ballona Creek levees and sandbars.

Burrowing owl use of the Ballona Reserve is well documented and is recognized in Draft EIS/EIR Section 3.4.2. As shown in Draft EIS/EIR Figure 3.4-15, this species occurs throughout the area in a non-breeding capacity. Their occurrence at the bluffs and in Area A also is cited. Multiple comments received confirm the reporting in the Draft EIS/EIR and supplement it with photographs, including two 1989 photos of owls using ice plant for habitat in the “bluffs of Ballona” and a photograph of a burrowing owl from Area A. Commenters also note (consistent with the analysis in Draft EIS/EIR Section 3.4.6) that the Project and restoration alternatives would adversely impact burrowing owl habitat, including wintering habitat. For those who asked for an alternative that would not impact owl habitat, CDFW notes that the Draft EIS/EIR considers one: Alternative 4, the No Action/No Project Alternative.

An additional comment asks whether CDFW has considered creating burrows for orphaned burrowing owls. As described in Mitigation Measure BIO-11-i: Burrowing Owl Surveys, a Burrowing Owl Management Plan would be prepared that includes mitigation for impacted occupied burrows through the installation of artificial burrows. Hence, CDFW would create burrows if owls are displaced from their burrows. No burrowing owls would be “orphaned” by the Project. As described in Mitigation Measure BIO-11-i: Burrowing Owl Surveys, protective buffers would be established around any identified active nest, and owl habitat would only be cleared following the successful fledging of juvenile owls.

## 2.2.6 General Response 6: Hydrology and Water Quality

Hydrology and water quality are discussed and analyzed in Draft EIS/EIR Section 3.9: the environmental setting is described in Section 3.9.2; applicable laws, regulations, plans, and standards are introduced in Section 3.9.3; direct and indirect impacts are analyzed in Section 3.9.6; cumulative impacts are analyzed in Section 3.9.7; and monitoring efforts are described in Appendices B6 and F11. Mitigation measures that would avoid or reduce potential significant impacts also are identified in Draft EIS/EIR Section 3.9.6. See, e.g., Mitigation Measure WQ-1a-i, Monitoring and Adaptive Management Plan (MAMP).

### 2.2.6.1 Total Maximum Daily Loads (TMDLs)

Total Maximum Daily Loads (TMDLs) for trash, bacteria, and metals in the water column have been developed to address exceedances of these constituents in Ballona Creek. For Ballona Estuary, the TMDL for toxics (including polycyclic aromatic hydrocarbons [PAHs], pesticides, and other organic compounds) in sediment and fish tissue was combined the TMDL for metals in the water column in Ballona Creek. Another TMDL for sediment and invasive exotic vegetation was developed for the Ballona Creek Wetlands. The TMDLs define waste load allocations (WLA) and implementation timelines to meet reduction goals. Draft EIS/EIR Section 3.9.2.2 discusses the existing water and sediment quality in Ballona Creek and the Estuary, while Section 3.9.3.3 provides information on the TMDLs in the Ballona Wetlands. Multiple commenters asked how the Project and other restoration alternatives would meet the Ballona Creek TMDLs and how the watershed water and sediment quality could impact the wetlands.

### ***Trash, Bacteria, and Metals***

As discussed in Draft EIS/EIR Section 3.9.2.2, *Environmental Setting*, the TMDL WLA goal for trash is zero with phased reductions of trash to occur over a period of 10 years. Compliance for the bacteria TMDL was expected to be achieved for dry weather flows by April 27, 2013, and by April 27, 2021, for wet weather flows. As of September 2013, the dry weather flows still periodically exceeded the TMDL targets, although the number of exceedances has decreased over time. The metals TMDL is expected to be achieved by January 11, 2021.

As discussed in Draft EIS/EIR Section 3.9.3.3, the municipal separate storm sewer system (MS4) permittees, and not the Project, are responsible for achieving the TMDL goals. However, the Project would have to meet the sediment quality standards of the sediment quality objectives (SQOs). This would be done through drainage control features, such as bio-swales, pre-treatment basins, armoring, and appropriate surface materials for paths and other public access features, which would capture and reduce the velocity of surface water and associated sediment and other contaminants before reaching the marsh. Additionally, Mitigation Measure WQ-1a-i's MAMP is included to determine if impairment conditions exist and to provide protocols for any further measures to reduce the impacts to sediment to below the SQOs and fish tissue targets.

### ***Pesticides (Toxics)***

CDFW previously identified organochlorine pesticides as a source of toxicity within the Ballona Reserve. Draft EIS/EIR Section 3.8, *Hazards and Hazardous Materials*, under the heading "Dredged and Fill Materials," describes the studies that have been conducted in the Project area. Draft EIS/EIR Appendix F5 includes a Ballona Wetlands Restoration Project Sediment Quality Investigation as well as a 2014 Toxicity Evaluation of Ballona Wetlands Sediment Cores. The Sediment Quality Investigation includes the results of a 2008 soil sampling investigation (Weston 2009) for a total of 51 soil samples from 27 soil borings at various locations within Areas A and B of the Ballona Reserve. The 2014 Toxicity Evaluation incorporated the results of a previous chemistry investigation of representative sediment samples collected from locations in Areas A and B that were analyzed for organochlorine pesticides and other contaminants. The samples were tested by bioassay for toxicity where certain marine arthropods are placed in water for a certain time period with sediments collected from the Ballona Reserve to test whether the sediment increases the mortality of the arthropods. The results were evaluated for four potential uses (wetland surface materials, wetland foundation materials, upland materials, or ocean disposal) against several ecologic, two human health, two hazardous waste, and one ocean disposal criteria.

Draft EIS/EIR Section 3.9.6.1, *Alternative 1: Full Tidal Restoration/Proposed Action*, under the heading "Sediment Quality," considers Project design features to address pesticide contamination. It explains that sediment samples taken in 2006 in West Area B showed high levels of pesticides due to runoff from the adjacent communities and transportation corridors, such as Culver Boulevard, and due to limited tidal circulation and flushing. To minimize potential impacts related to the presence of these contaminants, Draft EIS/EIR Table 2-2, Project Design Features Incorporated into the Ballona Wetlands Restoration Project for Alternatives 1, 2, and 3, explains that a storm water pre-treatment basin would be installed between Culver Boulevard and the West



Area B levee to provide infiltration and treatment of the runoff from the new emergency and bus access road and Culver Boulevard. The basin would reduce the amount of constituents entering the West Area B marsh and improve sediment quality by limiting continued accumulation of constituents over time from the roads. Additionally, in Alternative 1 Phase 2, the levee would be breached and lowered in West Area B, reconnecting it to Ballona Creek.

As analyzed in Draft EIS/EIR Section 3.9.6.1, *Alternative 1: Full Tidal Restoration/Proposed Action*, in the context of Impact 1-WQ-1b, the analysis concludes that under post-restoration conditions, the Project would reconnect Ballona Creek to the existing marsh in West Area B, and thereby would allow sedimentation to occur that creates a sink for metals, nutrients, pesticides, and other constituents in the marsh. This degradation of the sediment quality in West Area B, the Draft EIS/EIR explains, could adversely impact the beneficial uses of this water body. Furthermore, under the heading “Deposition During Storm Events,” the Draft EIS/EIR concludes, “[d]uring storm events, some deposition is expected in the marsh after implementation of the Project. If the sediment coming from the creek contains constituents above the regulatory thresholds, it could degrade the sediment quality in West Area B after these events. However, the combined Metals and Toxics TMDL would reduce pollutant loading to Ballona Creek from the watershed, including constituents that are associated with suspended solids (metals, pesticides, PAHs). The compliance date for meeting the water quality goals and objective is January 2021. Since West Area B would not be breached before 2025, the constituents in the sediments coming from Ballona Creek would be below regulatory limits. See also water quality Mitigation Measure WQ-1ai, which requires the further development of a MAMP to ensure monitoring and adaptive management is conducted to recognize and address any erosion or sediment quality issues.”

### ***Sediment and Invasive Exotic Vegetation TMDL***

As describes in Draft EIS/EIR Section 3.9.3.3, the Project has been designed to achieve both sediment removal and restoration of historical tidal wetland habitats. And while the Project’s estimated sediment removals do not match the TMDL sediment load allocations, the TMDL allows for the use of an alternative load allocation based on the acres of salt marsh habitat restoration. These alternative load allocations may supersede the sediment load allocations with approval by USEPA and LARWQCB. A request for modification of the load allocations that combines both sediment and habitat load allocations for the Project is planned as part of the final permitting and design phase for submittal after discussions with USEPA and the LARWQCB.

### ***The MAMP***

As described in Draft EIS/EIR Appendix F11, the framework MAMP “outlines the monitoring and assessment elements needed to determine if Project features and watershed actions are effective in addressing potential impacts to biological resources or human health. This framework also uses monitoring to assess sources, if impacts are determined through comparison to established thresholds and compliance targets. As Project features address potential accretion, erosion, and water and sediment quality impacts, the monitoring outlined in the framework is to assess the effectiveness of these features. The framework also addresses potential unknowns, such as the potential erosion and accretion of sediments, the exposure and migration of sediment

that has not been previously characterized and that contains constituents above the thresholds, and the accumulation of emerging pollutant from the watershed that are not addressed in the current TMDL (e.g., synthetic pyrethroid pesticides).

The framework MAMP includes “Water and Sediment Quality Framework Steps.” Under Step 2, it outlines the sediment testing process and states that, “[i]f the erosion and accretion monitoring and review of existing sediment quality data indicate further monitoring is required, then the second step would include the sampling and analysis of targeted sediment within wetlands channels. This sampling and analysis should be coordinated with regional monitoring programs and the Permittee TMDL monitoring. For this step the analysis will be limited to chemical analysis of legacy and identified new constituents such as synthetic pyrethroid pesticides. The concentrations of these constituents will be compared to the TMDL sediment quality targets based on the effects range low (ER-Ls) or other applicable thresholds for the emerging pollutants.” Under Step 4 (Determine Sources), the MAMP states, “If the sediment is identified through the SQO process to be impaired or likely impaired, then the next step would be conducted. This step includes an assessment of all the data from the various monitoring programs and identification of the likely or known sources of the constituents that are predominant in resulting in the impaired condition. This may require additional monitoring and testing. For example, to determine the sources of sediment impairment in accumulated sediment in new wetland channels, evaluation of the chemistry data may indicate that the presence of synthetic pyrethroid pesticides above the L50 based threshold. Further testing of the sediments could indicate that the sediment results in a toxic response to marine arthropods. Toxicity identification evaluations (TIE) testing could then indicate that the toxicity is due to these pesticides. Since these pesticides have only recently been introduced and heavily use (last 10 years), the analysis could conclude that the source of sediment was not the dredge material from Marina del Rey placed in Area A, or historical marsh sediments in areas that have not been subject to recent watershed or adjacent urbanized land storm flows. The analysis would show that the sediment is likely from the watershed where these pesticides are used.”

### ***TMDL Timing***

Another concern that was repeated by commenters was that relying on the TMDL implementation timeline (anticipated dates of achieving the waste load allocation goals) might not be realistic, and water and sediment quality conditions in the creek may not be improved by the time the Project is constructed. However, the Project does not rely solely on achievement of the TMDL goals to protect habitats and wildlife. As discussed above, Project features include drainage control to reduce contaminants entering the marsh, and the MAMP would identify impairments and determine next steps to address any impairments.

### **2.2.6.2 Sea-Level Rise**

Sea-level rise is addressed in Draft EIS/EIR Section 2.2.2.1, Section 2.2.2.6, Section 2.2.5.2, Section 3.4.5, Section 3.4.6.1 (in the context of Impacts 1-BIO-1a, 1-BIO-1e, 1-BIO-1i, 1-BIO-1o, 1-BIO-1p, and 1-BIO-1q), Section 3.4.6.4, Section 3.9.2.2 under “Flooding,” Section 3.9.6.2 (in the context of Impact 1-WQ-4), and in Draft EIS/EIR Appendices B1, B7, F7, F8, F9, and F11.



## ***Wetland Sustainability***

CDFW received multiple comments that asked about the sustainability of the existing wetlands and salt pan in Area B with sea-level rise under Alternative 4, the No Action/ No Project alternative. Additional questions were asked about the sustainability of the proposed wetlands and the capability of the marshes to migrate upslope under the Project and possible methods to increase resiliency, including sediment augmentation.

Draft EIS/EIR Appendix F9 describes the hydraulic modeling that was conducted to evaluate the sustainability of the existing wetlands in Area B without the Project. As discussed in Draft EIS/EIR Section 3.4.6.4, the modeling showed that the management of the existing tide gates would provide some acclimation to sea-level rise within an approximately 50-year span, but would not provide a long-term protection strategy for riparian and wetland habitats. With 59 inches of sea-level rise by 2100,<sup>25</sup> the average lowest tide in the creek each day (MLLW) would rise to 4.7 feet NAVD, which is more than 2 feet above the current self-regulated tide (SRT) gates' closing elevation. Under typical tidal conditions with sea-level rise, this means that the water level in all of the managed areas would continually increase (due to higher water levels in the creek and the leakage in the SRT gates) except during spring low tides, occurring every two weeks, when the water could drain out, as shown in the model results in Draft EIS/EIR Appendix F9, Figure 15. There would be no regular tidal signal and this level of inundation would convert the existing marsh to subtidal or mudflat habitat. If the tide gates were fixed to prevent leaking, the water level would remain at 3.4 feet NAVD (the elevation when the SRT gates close) except for infrequent, low-tide events, resulting in no regular tidal signal. Additionally, the tide gates eventually would have to be closed permanently as water levels in the creek continue to rise, to maintain the current level of flood protection to surrounding areas. Closing the tide gates would disconnect all of the tidal wetlands hydrologically from their water source.

In Alternative 4 (No Action/ No Project), it is expected that the salt pan would convert to marsh before 2050 because, as sea-level rises, the mid marsh habitat elevation range will rise as well and the salt pan would be inundated frequently enough that salt pans would convert to marsh. As discussed in Draft EIS/EIR Appendix B7 and documented in the Ballona Wetlands Ecological Reserve Comprehensive 5-Year Monitoring Report, this process already appears to be occurring in the northern portion of the existing salt pan through the formation of tidal channels extending into the salt pan, which appear to be increasing tidal inundation, leaching salt from the soil, and allowing pickleweed vegetation to establish.<sup>26</sup> This changes is likely a result of adding the self-regulating tide gates to the system and providing more than just a muted tide that existed before. This can be used to understand how this process might occur with sea-level rise.

Alternatives to manage the existing marsh behind the levees through pumps and other infrastructure were considered and rejected (Draft EIS/EIR Section 2.3.6, Alternative 10). A

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<sup>25</sup> U.S. Army Corps of Engineers, 2011. Sea-Level Change Considerations for Civil Works Programs. EC 1165-2-212. October 1, 2011.

<sup>26</sup> Johnston, Karina; Medel, Ivan; Abbott, Rodney; Grubbs, Melodie; Del Giudice-Tuttle, Elena; Piechowski, Charles; Wong Yau, Maria; Dorsey, John (Johnston, Medel, Abbott et al.), 2015. Ballona Wetlands Ecological Reserve: Comprehensive 5-Year Monitoring Report. Prepared by The Bay Foundation for the California State Coastal Conservancy. December 2015.

major goal of the Project is to create self-sustaining habitats. Potential manipulated wetlands alternatives would depend on significant managed infrastructure to maintain the wetlands and construction and reconfiguration could be required during the life of the Project to accommodate sea-level rise. In contrast, Alternatives 1 through 3 have been designed to account for sea-level rise by allowing for wetland transgression into transition and upland habitat areas, without requiring additional construction.

Habitats under Project conditions also would be susceptible to sea-level rise through 2100 and beyond, but they would be more resilient than under the No Project Alternative (Alternative 4). For example, the life of the salt pan habitat is expected to be extended by approximately 10 years due to the berm proposed by the Project (Draft EIS/EIR Appendix B7). Additionally, the broad transitional slopes between wetland and upland habitats are intended to increase the resiliency of the restored wetlands to future sea-level rise and allow wetland habitats to transgress up slope with rising sea levels. This process of “coastal rollover” has occurred over geologic time, is expected to continue and accelerate with projected sea-level rise, and has been documented at marshes in California<sup>27</sup> and throughout the U.S.<sup>28</sup> Including room for marsh transgression is considered a restoration “best practice.”<sup>29</sup>

Draft EIS/EIR Appendix F9 Figure 14 illustrates the spatial extent of wetland habitat over time for both Alternative 4 and the Project. The habitat acreages at each time step have not been quantified due to the uncertainty of how certain habitats (e.g., brackish, willow, seasonal wetlands) may evolve. However, the qualitative assessment of how salt marsh, mudflat, and subtidal habitats will evolve based on existing and proposed topography is presented in Figure 14 of Appendix F19, and shows that the Project would provide more salt marsh habitat compared to Alternative 4 at each time step.

As discussed in Draft EIS/EIR Appendix F11, sediment dredged from Marina del Rey could be placed back in the marsh to help the system keep up with sea-level rise. Sediment augmentation is currently being studied at Seal Beach and appears to be a promising adaptive management option for marshes threatened by sea-level rise.

### ***Flood Risk to Surrounding Areas***

Multiple commenters raised questions about the flood risk due to sea-level rise to surrounding areas, such as along Santa Monica Bay and to SoCal Gas Company infrastructure. The proposed restoration would not change the flood risk to low-lying areas along the Santa Monica Bay shoreline, so the impact of sea-level rise to these areas was not considered. The existing SoCal Gas Company infrastructure is protected by the Ballona Creek flood control levees and the SRT

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<sup>27</sup> Wasson et al., 2013. Ecotones as Indicators of Changing Environmental Conditions: Rapid Migration of Salt Marsh–Upland Boundaries. *Estuaries and Coasts*. DOI 10.1007/s12237-013-9601-8. February 21, 2013.

<sup>28</sup> Morris et al., 2002. Responses of Coastal Wetlands to Rising Sea Level. *Ecology*, 83(10), 2002, pp. 2869–2877. March 8, 2002.

<sup>29</sup> Fejtek et al., 2014. Best Practices for Southern California Coastal Wetland Restoration and Management in the Face of Climate Change. University of California Los Angeles, Institute of the Environment and Sustainability.



gates, so the SoCal Gas operations and infrastructure is not expected to be compromised by sea-level rise under Alternative 4 (No Action/ No Project).

### ***Land Subsidence and Accretion***

Multiple commenters asked about land subsidence, due to increased tidal influence of the groundwater and loss of organic material. Sea water intrusion would not cause land subsidence. In cases where water is removed from an aquifer (e.g., through pumping), land subsidence can occur as the water is drained from the interstitial spaces between soil particles and these spaces collapse, lowering the land elevations. However, none of the restoration alternatives analyzed in detail in the EIR proposes to remove groundwater from the system, so no land subsidence is expected.

Salt marshes accrete both organic and inorganic sediment and have been shown to be able to keep pace with limited amounts of sea-level rise.<sup>30</sup> The plant species within a marsh produce roots and aboveground biomass, which can be incorporated into the soil as organic material. Additionally, plants can capture inorganic sediment traveling through the system in their roots and plant structures. If plants are lost through sea-level rise or other events, the marsh would lose its ability to accrete biomass and keep pace with sea-level rise. However, the loss of the marsh is not expected to cause land subsidence, unless the marsh was diked and drained, allowing the organic material to be decomposed and be released to the atmosphere, which is not proposed as part of this Project.

### ***Freshwater Habitats***

Multiple questions were asked about how allowing full tides within the Project Site may impact freshwater habitats or the salinity gradient of the system with sea-level rise. Under existing conditions, the site sustains some brackish marsh and some willow/mulefat thicket around the bluff slopes in South, West, and Southeast Area B (Draft EIS/EIR Figure 3.4-2). The Project would increase the existing brackish marsh by 5.2 acres (Draft EIS/EIR Table ES-2). Willow/mulefat thicket would decrease by 1.9 acres overall (Id.), but Southern Willow Scrub habitat, a CDFW Special-Status natural vegetation community, would increase by 2.7 acres (Draft EIS/EIR Table 3.4-17). The small reduction of willow/mulefat thicket would not dramatically change the freshwater habitat. With sea-level rise, it is expected that these habitats would be impacted by tidal inundation and saltier groundwater both with and without the Project.

Tidal inundation in South and Southeast Area B would be limited by the size of the culverts and the Freshwater Marsh would not experience any tidal influence. Potential impacts to the existing Freshwater Marsh are addressed in Draft EIS/EIR Section 3.4.6, *Direct and Indirect Impacts*, which provides a program to monitor for intrusion, including the existing Freshwater Marsh and Riparian Corridor, as part of the management plan for the proposed restoration.

As discussed in Draft EIS/EIR Section 2.3.6, the historic Ballona Lagoon wetlands in the late 1800s included a larger area of freshwater, brackish, and tidally affected salt marsh habitats that

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<sup>30</sup> Mudd et al., 2009. Impact of Dynamic Feedbacks between Sedimentation, Sea-Level Rise, and Biomass Production on Near-Surface Marsh Stratigraphy and Carbon Accumulation. *Estuarine, Coastal and Shelf Science* (2009), doi:10.1016/j.ecss.2009.01.028.



transitioned into a more alkaline/freshwater system approximately 1.5 miles inland from the coast.<sup>31</sup> The mouth of Ballona Creek often was closed to the ocean by a sand berm along the beach, causing perching of water within the Ballona Lagoon.<sup>32</sup> In contrast to historic conditions, the Ballona Creek channel was designed to have a permanent opening between Ballona Creek and the ocean and, as a result, the historic water regime is no longer available to make large amounts of freshwater and brackish marsh self-sustaining.

### ***Evolving Sea-Level Rise Science***

As discussed in Section 2.2.3 of Draft EIS/EIR Appendix B1, the Corps, along with the State of California, have provided guidance for sea-level rise planning, which recommends consideration of several sea-level rise scenarios. The current design conservatively uses the Corps' 2011 high estimate of 59 inches of sea-level rise by 2100. If sea-level rise progresses more slowly, the levees will provide flood protection beyond 2100 and the marsh and salt pan habitats will be sustained for longer.

Recent studies include the California Coastal Commission Sea-Level Rise Policy Guidance,<sup>33</sup> which recommends using the estimates provided by the National Research Council<sup>34</sup> and the Ocean Protection Council (OPC) Sea-Level Rise Guidance update.<sup>35</sup> The OPC document provides minor updates to the sea-level rise amounts for the prior emissions scenarios, but also considers a more extreme scenario resulting in rapid sea-level rise of almost 10 feet by 2100.

It is important to note that sea-level rise is expected to continue for centuries beyond 2100, because the earth will require time to equilibrate to the emissions that have already been released to the atmosphere. Although sea-level rise typically is presented as a range in the amount of sea-level rise that will occur by a certain date (e.g., 1–2 feet of sea-level rise by 2050), it can also be presented as a range of time during which a certain amount of sea-level rise is sure certain to occur (e.g., 1.5 feet of sea-level rise between 2040 and 2070). With that in mind, it is important to note that even if sea level science is evolving, the Project should plan for 59 inches of sea-level rise, just possibly at a date before or after 2100. Additionally, the Project is designed to be more resilient to sea-level rise than the No Project Alternative (Alternative 4), regardless of the exact amount of sea-level rise.

### **2.2.6.3 Freshwater Marsh**

Multiple comments were received regarding the impacts of the proposed restoration on the Freshwater Marsh. The existing functioning of the Freshwater Marsh and the proposed changes with the Project are described in Draft EIS/EIR Section 2.2.2.2. Water levels and flood capacity in

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<sup>31</sup> Dark et al., 2011.

<sup>32</sup> Jacobs et al., 2010.

<sup>33</sup> California Coastal Commission, 2018. Sea-Level Rise Policy Guidance: Interpretive Guidelines for Addressing Sea-Level Rise in Local Coastal Programs and Coastal Development Permits, Draft Science Update. July 2018. Available online: <https://www.coastal.ca.gov/climate/slrguidance.html>.

<sup>34</sup> NRC, 2012. Sea-Level Rise for the Coasts of California, Oregon, and Washington: Past, Present, and Future. ISBN 978-0-309-25594-3 | DOI: 10.17226/13389.

<sup>35</sup> Griggs et al., 2017. Rising Seas in California: An Update on Sea-Level Rise Science. April 2017. Available online: <http://www.opc.ca.gov/webmaster/ftp/pdf/docs/rising-seas-in-california-an-update-on-sea-level-rise-science.pdf>.



the Freshwater Marsh would be maintained, but a portion of the overflow would be redirected from Ballona Creek (where it currently leaves the marsh) to Southeast Area B. As presented in Draft EIS/EIR Section 2.2.2.2, the Ballona Creek outflow structure would be adjusted to reduce the amount of outflow to Ballona Creek (i.e., by raising the elevation of the weir that controls discharge from the Freshwater Marsh to Ballona Creek), thereby allowing for a greater portion of the Freshwater Marsh outflow to be conveyed to the Southeast Area B marsh. A new water control structure would be installed in the existing Freshwater Marsh berm to provide supplemental outflow from the Freshwater Marsh to the Southeast Area B marsh, which would maintain the current water levels within the marsh. Salt water intrusion would be monitored, as part of the management plan for the proposed restoration as described in Draft EIS/EIR Section 3.4.6.

## 2.2.7 General Response 7: Requests for Recirculation

The majority of comments that requested revision and recirculation of the analysis commented generally on the Draft EIS/EIR stating that the document, analysis, or data used in the analysis was inadequate without providing a more specific comment on the adequacy of the EIR. A number of comments were more substantive. Substantive comments requesting revision and recirculation run the gamut from procedural concerns to opinions about the stability and completeness of the project description, the range of alternatives, the accuracy of the baseline, adequacy of the impacts analysis, and perceived deferral of mitigation measures.

- Regarding procedural concerns, one comment suggested that a too-short comment period precluded adequate public participation, while other comments cited access to reference materials and perceived conflicts of interest or improper influence as a basis.
- Regarding the project description, one comment identified parking and need for the same.
- Comments about the project objectives and range of alternatives included, for example, a request for detailed consideration of a “freshwater seasonal alternative,” requests for an alternative that would restore Ballona to its “historic conditions,” requests to revisit alternatives that were not carried forward for more detailed review, and requests for an alternative with less disturbance.
- Some comments suggested that the Draft EIS/EIR should be revised and recirculated for purposes of CEQA using a new baseline for species surveys and wetland delineations that accounts for drains.
- Regarding the adequacy and accuracy of the analysis of specific issues, one comment suggested that fewer than all documented occurrences of Ridgeway’s Rail had been reported.

### 2.2.7.1 Recirculation under NEPA

Specifics of the recirculation process under NEPA are outside CDFW’s purview and the scope of this EIR. CDFW anticipates that the Corps will address questions relating to recirculation and other NEPA-specific comments in a Final EIS.

### 2.2.7.2 Recirculation under CEQA

CEQA and its implementing Guidelines require recirculation of a draft EIR for an additional round of agency and public comment only if significant new information is added after the close of the public comment period (Public Resources Code §21092.1; CEQA Guidelines §15088.5). “Information” can include revisions in the project or the environmental setting as well as additional data or other information (CEQA Guidelines §15088.5). Recirculation is intended to be the exception, not the general rule. *Save Our Peninsula Committee v. Monterey County Board of Supervisors* (2001) 87 Cal.App.4th 99. CEQA Guidelines Section 15088.5(a) provides four examples of “significant new information” requiring recirculation, including:

- (1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
- (2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.
- (3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project's proponents decline to adopt it.
- (4) The Draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

The fourth example is based on the court’s decision in a specific lawsuit and is intended to capture circumstances in which fundamental information is omitted in the Draft EIR and then added after the public comment period has closed. In *Mountain Lion Coalition v. Fish & Game Commission* (1989) 214 Cal.App.3d 1043, an environmental organization challenged the Fish and Game Commission’s adoption of regulations that would have allowed sport hunting of mountain lions to resume within the state based on an environmental analysis that failed to adequately consider cumulative impacts. The organization claimed that the analysis inadequately addressed or completely ignored important environmental issues that had been drawn to the agency’s attention by the superior court, ignored input from scientists, and failed to support conclusions with references to specific scientific and empirical evidence. In reaching its decision, the court stated: “While technical perfection in a cumulative impact analysis is not required, courts have looked for ‘adequacy, completeness, and a good faith effort at full disclosure.’ ‘A good faith effort to comply with a statute resulting in the production of information is not the same, however, as an absolute failure to comply resulting in the omission of relevant information.’” Id. at 1052 (citations omitted).

In contrast to the environmental analysis questioned in the *Mountain Lion Coalition* case, the EIR for this Project provides an adequate and complete disclosure of direct, indirect, and cumulative impacts related to the restoration and construction activities as well as the operation and maintenance activities described in Draft EIS/EIR Section 2.2 for the Project and each of the alternatives. Baseline conditions are described on a resource-by-resource basis throughout Draft EIS/EIR Chapter 3. Also in Chapter 3, direct, indirect, and cumulative impacts are analyzed and mitigation measures are identified where appropriate to avoid or reduce anticipated effects. Potential significant unavoidable, significant irreversible, and growth-inducing impacts also are analyzed.



Courts have found the addition of information to a draft EIR not to constitute “significant new information” so as to require recirculation in myriad other circumstances. For example, information submitted by an expert challenging the conclusions on a subject already evaluated in the EIR does not trigger recirculation. *Cadiz Land Co., Inc. v. Rail Cycle, L.P.* (2000) 83 Cal.App.4th 74, 97. Recirculation also is not required when new information merely clarifies, amplifies or makes insignificant modifications to a previously circulated draft EIR. CEQA Guidelines §15088.5(b); *Marin Municipal Water District v. KG Land California Corp.* (1991) 235 Cal.App.3d 1652 (extended moratorium on water hookups would not cause significant impacts). The inclusion of supplemental data and analysis also does not trigger recirculation when the new information reaches the same conclusion as was reached in the draft EIR. *Laurel Heights Improvement Assn. v. Regents of University of California* (1993) 6 Cal.4th 1112. Consistent with these reasons, and because information added to the Draft EIS/EIR (see Chapter 3 of this Final EIR) does not include a feasible project alternative or mitigation measure that is considerably different from others previously analyzed and does not identify a new or substantially more severe significant impact than previously identified, recirculation is not required for any of the reasons suggested in the comments summarized above.

## 2.2.8 General Response 8: Public Participation

Opportunities for agencies and members of the public to provide input during the environmental review process for this Project are described in Section 1.4 of this Final EIR.

### 2.2.8.1 Requests for Extension

Several comments requested that CDFW extend the public comment period on the Draft EIS/EIR based on the length of the document and volume of materials made available for review as the basis for the request; others did not understand that the reference materials cited in and relied on the Draft EIS/EIR were available for review immediately upon issuance of the Draft EIS/EIR.

The initial public review period for the Draft EIS/EIR began September 25, 2017, for purposes of CEQA. In response to requests received, CDFW elected to extend the initial comment period until February 5, 2018. As a result, the total comment period was 133 days. According to the CEQA Guidelines (14 CCR §15105), the public review period for a draft EIR must be at least 45 days and should not be longer than 60 days except in unusual circumstances. Allowing that the import and level of interest in the Project are unusual, CDFW elected to provide a comment period that extended more than twice as long as the maximum duration that ordinarily applies.

As indicated in Section 2.1.1 of this Final EIR, CDFW received nearly 8,000 postcards, emails, and letters with input on the Draft EIS/EIR in addition to oral comments received during the November 8, 2017, meeting. This level of input suggests that the extended comment period succeeded in providing ample opportunity for interested parties to participate in the process.

Several other comments requested that CDFW extend the public comment period on the Draft EIS/EIR based on a misunderstanding about the availability for review of the reference materials that were cited in and relied upon the Draft EIS/EIR. All such materials were available for review immediately upon issuance of the draft document. The statutory basis for providing reference

materials for public review under CEQA is found in Public Resources Code §21092(b)(1), which requires a Notice of Availability (NOA) to include “the address where copies of the draft environmental impact report ... and all documents referenced in the draft environmental impact report ... are available for review.” The NOA for this project described how the Draft EIS/EIR and the reference materials relied upon in its drafting could be accessed during normal working hours at three locations: the California State Coastal Conservancy and specified public libraries in Playa Vista, Marina del Rey, and Westchester-Loyola Village. Anyone who wished to do so could have accessed the materials at any of these locations immediately upon issuance of the Draft. As a courtesy, the reference materials also were made available electronically via the Project website: <https://www.wildlife.ca.gov/Regions/5/Ballona-EIR>.

### 2.2.8.2 Requests for Additional Public Meetings

Several comments also requested that additional public meetings be offered for purposes of providing oral comments. “CEQA does not require formal hearings at any stage of the environmental review process. Public comments may be restricted to written communications” (14 CCR §15202(a)). However, because CDFW understands and believes that holding a public hearing on the Draft would facilitate the purposes and goals of CEQA, CDFW joined with the Corps to hold a joint public comment meeting on November 8, 2017. Responses to oral and written comments received at the hearing are provided in Section 6.5.8. Given the overall duration of the public participation period and the more general nature of oral comments relative to written ones, CDFW elected not to hold additional public meetings.

## 2.3 Individual Responses

Copies of comment letters, the public hearing transcript, and written responses are included in this Section 2.3, *Individual Responses*, which organizes comments and responses by category: Agencies (federal, State, and local), the Native American Community, Form Letters, Organizations, Individuals, and oral comments received at the public hearing. Within each category, letters are listed chronologically in the order in which they were received and then alphabetically. Where multiple comments were received from a single commenter, all comments and all responses are provided together as of the date of the first communication. In each case, the comment letter appears first, followed by a comprehensive set of responses. Comments have been delineated and numbered consecutively within each comment letter. Each individual comment is marked in the margin with the number of the response. Where an individual comment is addressed by information in one or more General Responses, the response refers to the relevant General Response(s). Where an individual comment is addressed by a previous response, the reader is referred to the previous response to avoid duplication.

### 2.3.1 Responses to Federal Agency Comments

The following pages contain the comment letters received from federal agencies and CDFW’s associated responses.



## United States Department of the Interior

OFFICE OF THE SECRETARY  
Office of Environmental Policy and Compliance  
333 Bush Street, Suite 515  
San Francisco, California, 94104

In Reply Refer To:  
17/0465

*Filed electronically*

Daniel Swenson  
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February 2, 2018

**Subject:** Department of the Interior comments on the U.S. Army Corps of Engineers Draft Ballona Wetland Restoration Project, Environmental Impact Statement, Los Angeles County, California

Dear Mr. Swenson;

The Department of the Interior (Department), through the U.S. Fish and Wildlife Service (Service or USFWS), has reviewed the above referenced *Draft Ballona Wetland Restoration Project, Environmental Impact Statement* (DEIS), dated September 2017. The Service's primary concern and mandate is the protection of public fish and wildlife resources and their habitats. The Service has legal responsibility for the welfare of migratory birds, anadromous fish, and endangered animals and plants occurring in the United States. These comments are provided pursuant to DOI responsibilities under the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 *et seq.*) and the Migratory Bird Treaty Act (MBTA) of 1918, as amended (16 U.S.C. 703 *et seq.*). The Department anticipates that potential effects to federally listed species in association with the project will be addressed in the Service's consultation with the U.S. Army Corps of Engineers (Corps), in accordance with section 7 of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

AF1-1

The purposes of the project, pursuant to the National Environmental Policy Act, are to: 1) restore ecological functions and services, in part, by increasing tidal influence to the project area, and 2) reduce flood risk to the surrounding communities/infrastructure for up to the 100-year flood event (not to exceed 68,000 cubic feet per second). The California Department of Fish and Wildlife (CDFW) and Los Angeles County Department of Public Works-Los Angeles County Flood Control District (LACFCD) have submitted applications to the Corps, as required to modify lands and infrastructure within the project area to construct the proposed project. The DEIS considers two alternatives to the proposed project and a no action alternative; however, the least damaging practicable alternative (LEDPA) has not been determined. Nine additional

AF1-2

alternatives (Alternatives 5 through 12) were considered but not carried forward for detailed review.

↑ AF1-2  
cont.

The Service provided comments on the notice of intent (NOI) to prepare a DEIS on October 23, 2012 (FWS-LA-02B0010-13TA0023), and participated in the development of the DEIS as a cooperating agency between January 5, 2015 and February 1, 2017 (FWS-LA-02B0010-17CPA0070). Although other program commitments precluded our continued involvement as a cooperating agency, we appreciate your consideration of preliminary comments submitted prior to the release of the DEIS to the public.

AF1-3

### General Comments

As a cooperating agency, The Service initiated discussions with the Corps and CDFW about alternatives that would further minimize disturbances to biological resources within the project site over the long term. The Service provided comments on the alternatives that were considered but not carried forward and provided an alternative that is not considered in the DEIS (attached). The alternative the Service provided focused on limiting/removing roadway infrastructure from within the wetland, regardless of the extent of restoration proposed. The proposed alternative would provide: 1) an increased benefit to wildlife within the Ballona Reserve by significantly reducing mortality from vehicles and disturbance; 2) more flexible options for habitat improvement (e.g., allowing water from the Freshwater Marsh to enter the project area as opposed to piping the water underground to Ballona Creek); and 3) a greater potential distance between recreational activities and restored habitats. The Service is available to continue to work with the Corps and CDFW to develop alternatives to the proposed project.

AF1-4

Our comments in this letter focus on the proposed project. Our primary concerns with the proposed project are: 1) the lack of clear objectives for the restoration; 2) the large extent of temporal impacts to vegetated areas (about 336 acres for about 10 years) relative to the gain in aquatic/wetland habitats (about 61 acres); 3) the increase in habitat fragmentation associated with placement of new flood control levees/berms; 4) the increase in disturbance to wildlife associated with increased recreation; and 5) uncertainty regarding the extent of maintenance required for flood control and recreation infrastructure.

AF1-5

AF1-6

AF1-7

AF1-8

AF1-9

In its previous comment letters, the Service stated its concerns regarding increased habitat fragmentation associated with the proposed project. In general, coastal estuaries consist of a large expanse of low gradient open space that allows waterfowl and other wildlife to traverse unimpeded across the landscape and between habitats. Currently, Area A is separated from Area B by the Ballona Creek levee. The proposed project will relocate the existing levee to form a meander-shaped channel and introduce a new series of levees and berms to control water flows, provide flood protection, and protect existing habitats. We remain concerned that the increased fragmentation will limit wildlife movement and subject a greater proportion of the remaining wildlife within Ballona Wetlands to noise and disruption associated with recreation and maintenance activities along the new berms, lowering the overall quality of remaining habitat from its current condition.

AF1-10

Specific Comments

Page 2-31 and 2-81. Levee armoring identified in Figure 2-17A appears inconsistent with the “upland contours” included in Figure 2-1. Please clarify if the levee armoring is a separate structure from the “upland contours.” If the armoring will extend along the entire length of the realigned Ballona Creek channel, as presented in Figure 2-17A, please clarify how the armoring will affect tidal flows to areas north and south of the channel.

AF1-11

Pages 2-31 and 2-101. The location of boardwalks and pedestrian paths identified in Figure 2-23 do not correspond with the developed areas identified on Figure 2-1 and will result a greater extent of permanent impacts. The Service previously recommended that pedestrian boardwalks consist of spur trails off the Major Pedestrian and Bike Path, instead of a loop. Spur trails encourage passive recreation such as birding, wildlife observation, and photography and reduce disturbance to wildlife. Figure 2-1 appears to include spur trails, as recommended.

AF1-12

Page 2-31 and 2-154. The location of specific operations and maintenance areas identified on Figure 2-42 do not correspond with the developed areas identified on Figure 2-1. We request that areas requiring frequent vegetation maintenance (at least annual) are mapped as developed or invasive monoculture (consistent with existing habitat categories) because the regular disturbance will create conditions conducive to supporting invasive plant species and will retain a lower value as habitat for wildlife than areas that are not regularly maintained.

AF1-13

Page 2-43. The term “seasonal wetland” (first used on page 2-43) is used throughout the document to refer to depressions within restored areas that will seasonally pond. Because seasonal wetland is not included as a proposed habitat (e.g., Figure 2-1, Table 2-3), please clarify if it is included in another habitat category.

AF1-14

Page 2-45. The source of information for Table 2-3 (final impact and restoration acreages) is identified as ESA (2016). Please clarify if the restoration acreages presented in Table 2-3 are generated from Figures 2-1 and 2-4. In addition, we recommend that the Final EIS include a figure that identifies the limits of disturbance that were used to calculate the impacts presented in Table 2-3. Finally, Table 2-3 does not specify the acres of restored coastal sage scrub because the extent of post-construction maintenance is unknown. Given the project is anticipated to restore at least 39 acres of coastal sage scrub (i.e., a minimum of 75 percent of the existing coastal sage scrub within the site according to pages 3.4-102 and 103), we recommend Table 2-3 include this information. The figures should also identify a minimum of 39 acres that are appropriate for restoration of coastal sage scrub.

AF1-15

Page 2-54 and 2-70. Salt pan in West Area B is currently maintained with rainfall and occasional tidal inundation (once or twice per year). It appears the proposed berm around the salt pan in West Area B will cut off tidal flows, except during spring tides. Please clarify the change in frequency and extent of tidal flows to the salt pan and whether this change will alter the value of the salt pan habitat for wildlife. For example, in its existing condition, the salt pan periodically provides habitat for shorebirds, including the federally endangered California least tern [*Sternula antillarum browni* (*Sterna a. b.*); least tern].

AF1-16



Page 2-57. A berm (Structure 7) will be constructed west of the Freshwater Marsh to retain freshwater flows within a specific part of the project area. Please clarify the purpose of retaining the freshwater flows behind the berm. We are concerned that water trapped behind the berm will form a still pond and may encourage mosquito breeding. If feasible, we recommend removing this structure and allowing passive mixing of freshwater and tidal flows, as would occur in a natural estuary.

AF1-17

Page 2-61. Currently the Fiji Ditch supports saltbrush scrub; however, grading associated with the project will divert all water flow in North Area C to Fiji Ditch. The additional water is expected to support a riparian corridor with an average width of about 90 feet. Please clarify the change in watershed area and associated increase in water delivery to Fiji Ditch that is anticipated to support the riparian corridor. The proposed project will impact 5.3 acres of riparian vegetation, including a minimum of 0.3 acre of habitat for the federally endangered least Bell's vireo (*Vireo bellii pusillus*, vireo).<sup>1</sup> We are concerned that the net loss of riparian vegetation will be greater than anticipated if North Area C cannot provide sufficient water to support the proposed riparian corridor.

AF1-18

Page 2-137. The project includes a 10-year monitoring program to "document trends in habitat development and to assess progress toward meeting restoration objectives." We were not able to locate specific restoration objectives related to the project purpose of restoring ecological functions and services in the project area. Without clear restoration objectives, the overall intended benefits of the project for wildlife are difficult to evaluate. We recommend an adaptive management program be designed with specific restoration objectives tied to specific performance criteria (discussed further below) so that the monitoring program can be used to evaluate the success of the restoration efforts towards meeting its objectives.

AF1-19

Pages 2-139-145. Performance criteria are provided for specific habitat types over the 10-year period of the monitoring program (Tables 12-20). Although the proposed project will restore about 154 acres of fully tidal salt marsh, the performance criteria set low expectations for wildlife within restored habitats. By the end of 10 years, the abundance and diversity of wildlife (fish, birds, macroinvertebrates) is expected to meet pre-project levels. In addition, tidal marsh will support at least one breeding bird species. These criteria seem inconsistent with the purpose of the project to restore ecological functions and services within the project area. In addition, given the anticipated habitat evolution with sea level rise (Figures 2-36 through 2-40), we are concerned that by the time wildlife are re-established at pre-project levels, they may again lose their preferred habitats due to increased tidal inundation. Therefore, we recommend including additional discussion about the long-term expectations for wildlife diversity and abundance in the project area as it relates to the project purpose and restoration objectives. To accompany the discussion of long-term expectations for wildlife in the project area, we recommend including a table that lists the predicted habitat acreages based on the climate change models for sea level rise.

AF1-20

Page 2-154. Figure 2-42 identifies anticipated operations and maintenance areas. Please also include access routes to maintenance areas, if maintenance will require encroachment into

AF1-21

<sup>1</sup> Protocol surveys for the vireo have not been completed within all potentially suitable riparian vegetation within the project area.

restored habitat (e.g., 35-foot temporary access routes are anticipated on page 2-156), and any pedestrian trails/boardwalks that require maintenance. Please also include the location of the anticipated settling basin proposed in Fiji Ditch, before the culvert under Lincoln Boulevard (page 2-88). We are concerned that the extent of disturbance to wildlife from proposed operations and maintenance will be much greater than is currently represented in Figure 2-42.

AF1-21  
cont.

Page 2-156. According to the DEIS, if armoring installed adjacent to Ballona Creek becomes unburied then it will be allowed to naturally revegetate within remaining soils. Given the extent of development in the upper watershed, the channelization of Ballona Creek upstream from the project site, and the proposed storm-water treatment basins within the project site (discussed further below), it appears unlikely that sufficient sediment will be available to allow the armoring to become re-buried naturally.

AF1-22

Page 2-157. Several storm-water treatment basins are proposed to capture runoff, sediment, and debris before they enter the project site. We are concerned that the basins will preclude the great majority of sediment supply from reaching restored habitats. Given the anticipated sea level rise, a continued sediment supply will be important for maintaining proposed habitats over time. Because wetlands function to naturally treat runoff, please clarify the specific contaminants of concern that require the construction of each pre-treatment basin.

AF1-23

Page 2-194. The description of Alternative 4 (No Federal Action) does not include a discussion of the existing level of flood protection for comparison with the stated project purpose: to reduce flood risk to the surrounding communities/infrastructure. Please clarify if additional flood protection will be required if the proposed restoration project does not move forward.

AF1-24

Page 3.4-7 and 3.4-59. The project area includes about 200 acres of vegetation mapped as invasive monoculture in Figure 3.4-2. This vegetation category is included as uplands on Table 2-3; however, it appears that some of the invasive monoculture occurs in areas mapped as jurisdictional wetlands (Figure 3.4-17). Because of the potential differences in existing function of wetlands and uplands for wildlife, we recommend that the areas of invasive monoculture overlying wetlands are separated out from invasive monoculture overlying uplands in Table 2-3.

AF1-25

Page 3.4-21. Table 3.4-3 contains special-status plant species known to occur or potentially occurring within the project site. According to Appendix D11, southern tarplant (*Centromadia parryi* subsp. *australis*) and western dichondra (*Dichondra occidentalis*) were located on the site within the last 30 years and are presumed present but are not included in Table 3.4-3. Please include these additional species or clarify why they are excluded.

AF1-26

Pages 3.4-26-29. Table 3.4-4 contains special status wildlife species known to occur or potentially occurring within the project site. According to Appendix D12, there are several additional special status birds and mammals that were observed on the site, including the federally threatened western snowy plover (*Charadrius alexandrinus nivosus*). Please include these additional species in Table 3.4-4 or clarify why they are excluded.

AF1-27

Page 3.4-52. Please clarify if suitable habitat for pacific pocket mouse still occurs within the project site and if any of the prior trapping efforts were conducted specifically within suitable

AF1-28

habitat for Pacific pocket mouse. The survey protocol for Pacific pocket mouse has recently been updated to address detection-related inadequacies associated with the prior protocol. Please contact Stacey Love, Permit Coordinator for the Carlsbad Fish and Wildlife Office, for additional information regarding survey protocols.

AF1-28  
cont.

Pages 3.4-76-207. The analysis of direct and indirect effects of the project lacks sufficient detail to determine if individual species will benefit or be impacted by the project over the long term. For many species there is little connection made between the mitigation measures and how they will reduce impacts to less than significant. For example, Lewis' evening primrose will be replaced at a 1:1 ratio, but there is no discussion about whether there will be appropriate habitat conditions within the site to support the species after restoration is completed. Mitigation Measure BIO-1i-i (Nesting Bird and Raptor Avoidance) is anticipated to reduce the potential for disturbance to nesting birds from increased reactional activities, but the measure does not appear to apply to the post-restoration period. In addition, for many species, the analysis anticipates that the impacts "could" be reduced by the mitigation measures, as opposed to "would" be reduced, leaving the reader unclear if the mitigation measure will be adequate to reduce impacts to less than significant. Finally, we disagree with the conclusion that impacts associated with maintenance will be similar to existing maintenance and therefore result in less than a significant impact in all cases. The existing maintenance activities occur along rock lined levees, adjacent to an area mapped as predominantly invasive monoculture. The proposed project intends to improve habitat conditions in areas immediately adjacent to maintenance areas, increasing the potential for maintenance activities to disrupt wildlife. Please clarify how long term management, recreation, operations and maintenance, and sea level rise will affect the quality of habitat for individual species over the long term.

AF1-29

AF1-30

AF1-31

We appreciate the opportunity to comment on the DEIS and the Service is are available to continue to work with the Corps and CDFW to develop alternatives that will improve the quality of the site for biological resources over the long term. If you have any questions regarding these comments, please contact Christine Medak of the Carlsbad Fish and Wildlife Office at 760-431-9440, extension 298. For all other comments, please contact me at (415) 420-0524.

Sincerely

*Janet L Whitlock*

Janet Whitlock  
Regional Environmental Officer

Attachment

cc:

Ellen McBride, USFWS  
Cheryl Kelly, OEPC  
Christine Medak, USFWS  
Bert Orozko, USFWS  
Mendel Stewart, USFWS



USFWS PROPOSED NBW ALTERNATIVE – January 13, 2017

Construct new levee similar to Alt 2 (unless road removal allows expansion of wetlands in some areas) to minimize impacts to existing habitats in West Area B

Yellow Lines – Remove roadway (protect buried power line in place and provide dirt access road as needed for continued maintenance if the cost for relocation is too great). Expand wetland habitat if possible (or leave as wider upland buffer between habitat and recreational activities). Construct new road in a manner that allows continued use of existing roadways during construction.

Grey Line – Relocate section of Culver to connect more directly to Jefferson (maintains same type of intersection as existing)

Red Line – Raise shorter roadway section to match existing elevation at each end (about 12-14 feet) with higher elevation in middle – provide fencing along raised section of road to encourage birds to fly over cars (fencing types that do not completely limit views but provide adequate visible cues for birds in flight) See bridge cross section below.

Green Line – Fence to limit vehicle mortality where roadways remain adjacent to habitat



Ballona Wetlands  
Restoration Project

Bridge cross section



Figure 2-43

Alternative 2: Proposed Habitats

## Letter AF1: U.S. Department of the Interior (USFWS)

AF1-1 The review authority of the United States Fish and Wildlife Service (USFWS) under the listed laws and regulations is acknowledged.

AF1-2 USFWS's summary of the EIS and its alternatives is acknowledged.

AF1-3 CDFW understands that the USFWS's involvement as a Cooperating Agency for purposes of NEPA is limited at this time, and that the Corps may request further participation by USFWS at a later date. This NEPA relationship between the Corps and USFWS is separate from and independent of CDFW's CEQA process.

AF1-4 The alternative proposed by USFWS includes relocating a large section of Culver Boulevard further south and raising it to match existing elevations at the ends (to benefit Area B), installing bird-friendly fencing to reduce vehicle strikes, minimizing impacts to West Area B by constructing levees similar to Alternative 2.

Alternative 8 (Large Area Tidal Wetland Restoration and Subtidal Basin), Alternative 9 (Realignment of Ballona Creek Including Relocation or Raising of Key Roads), and Alternative 10 (Manipulated Wetlands Alternatives) each specifically considered raising and otherwise manipulating existing roads (Culver Boulevard, Jefferson Boulevard, and SoCalGas access roads) to improve connectivity for wetlands. As described and shown in Draft EIS/EIR Table 2-30, these alternatives were not carried forward for further consideration because they failed to meet screening criteria. Because USFWS' proposed alternative is similar to alternatives already considered and screened from further review, the proposed alternative would not provide findings different from the alternatives already considered and rejected for additional analysis. See General Response 3, *Alternatives* (Final EIR Section 2.2.3.3), which addresses these and other alternatives that were initially considered, but not carried forward for more detailed review.

AF1-5 Specifics of the Corps' purpose and need statement are outside CDFW's purview. Nonetheless, CDFW anticipates that the Corps will address questions relating to purpose and need and other NEPA-specific comments in a Final EIS. With that understanding, CDFW provides the following preliminary response for informational purposes.

The Corps' purpose and need statement responds to the problem at hand and must not unreasonably narrow or bias the range of reasonable alternatives to be identified. Therefore, the NEPA objectives stated in the Draft EIS/EIR call for "increasing tidal influence to achieve predominantly estuarine wetland conditions." The Ballona Reserve and existing wetlands are not currently predominantly estuarine wetlands. Therefore, the objective provides a purpose and need neither too broad nor too narrow for the proposed restoration and site. CDFW's project objectives for CEQA purposes elaborate on more specific project objectives. Draft EIS/EIR Section ES.3.2 and Section 1.1.2, *CEQA Project Objectives*, describe how the CEQA and NEPA objectives are stated differently but are both aligned to the Project purpose.



- AF1-6 As summarized in the Abstract and in Draft EIS/EIR Section ES.1, *Background and Project Overview*, all aquatic resources within the Project Site are degraded and the wetlands are among the most degraded wetlands in California. Without restoration, the degraded conditions would increase. As described in Section 3.4.7.2, *Incremental Impacts*, selection of either the Project or Alternative 2 or 3 would result in a beneficial effect to waters of the United States and waters of the State and benefits to long-term conservation.
- AF1-7 As shown in Draft EIS/EIR Figure ES-2, existing conditions within the Project Site include a high degree of habitat fragmentation due to infrastructure and uses. As summarized in Draft EIS/EIR Section ES.4, *Overview of Alternatives*, the Project and Alternatives 2 and 3 all include modifications for the purpose of increasing tidal habitat connectivity to address existing fragmentation of resource zones. As described, the Project would include new broadly sloped levees which would be constructed for the purpose of increasing the Ballona Creek's connectivity to its historic floodplain, thereby directly decreasing habitat fragmentation. See also Response AF1-10.
- AF1-8 As described in Draft EIS/EIR Section 3.11 and Table ES-3, the post-restoration increase in recreation facilities under the Project would include additional bike paths and pedestrian trails. As described, additional recreational opportunities would be limited to defined paths and trails. This would therefore limit potential impacts to wildlife from individuals using these paths and trails, thereby reducing disturbance to wildlife. The increased use would expand and enhance recreational opportunities, of which are not currently available, providing a Project benefit. Additionally, the following text has been added to Impact 1-BIO-1k under the heading "Phase 2 Indirect Impacts" to clarify impacts to least Bell's vireo due to recreation use: "Public access and recreational use is not expected to change substantially from existing conditions near the least Bell's vireo habitat identified in Figure 3.4-14. No new trails or public access points would be constructed in close proximity to the habitat. Operations and maintenance actions aimed at restoring habitat would also be timed to avoid conflicts with the vireo nesting season, and would have no significant impact on nesting vireos."
- Additionally, the following definition of "human activity" has been added to Draft EIS/EIR page 3.4-76: "Anticipated changes in human activity will include differences in in trail uses (e.g., passive recreation) and changes to the routine operations and maintenance activities to care for restored areas."
- AF1-9 Draft EIS/EIR Appendix B5, *Preliminary Operations and Maintenance Plan*, addresses preliminary operation and maintenance needs. Under the Rivers and Harbors Act of 1899 as codified in 33 U.S.C. Section 408, the LACFCD is the applicant for the Section 408 permit that would be required to modify flood project features within the Project Site and will continue to be responsible for operation and maintenance (Draft EIS/EIR Table 1-1). The Section 408 process would utilize



information from the EIS, and once concluded, would be integrated into one Record of Decision by the Corps that includes both Section 404 and 408 actions and permit decisions. Because the Section 408 process is separate and has not yet been completed, operation and maintenance details for flood features beyond the Preliminary O&M Plan are not incorporated into this EIR.

- AF1-10 The proposed relocation of Ballona Creek levees is designed to increase the creek's historic floodplain area among other associated ecological benefits. As summarized in Draft EIS/EIR Section ES 4.1, the proposed topography would include flat and gradually sloping levees different from the existing levees and are designed to decrease fragmentation and provide more high-quality resources on-site. The proposed design would provide for estuarine habitat not currently present within the Project Site and is anticipated to be used more by many wildlife due to the new ecological functions and services offered. As described in Draft EIS/EIR Section 2.2.2.3, bike and pedestrian paths would no longer run along Ballona Creek but instead would be located farther from the main channel along the top of the new elevated levees and existing disturbed Culver Boulevard. This would minimize the potential for disruption of wildlife from recreational use; a concern raised in the comment. The new pedestrian boardwalks would also be elevated above habitats by approximately 5 feet to avoid direct and indirect effects to resources and wildlife, and allow unimpeded wildlife movement beneath features. In addition, boardwalks would be constructed in a small percentage of the overall Project Site.
- AF1-11 The "upland contours" are visible alongside the armored structures in Draft EIS/EIR Figure 2-17A as a separate feature; these are described in the text as upland habitat to provide high-tide refuge. Figure 2-17A depicts different levels of armoring to be provided based on flood risk. See Draft EIS/EIR Section 2.2.2.2, *Alternative 1: Flood Risk and Stormwater Management*, under the heading "Erosion Control Features" for a description of the different levels of armoring.

The areas north and south of the channel would receive tidal ebb and flow from ocean water in Ballona Creek as described in Draft EIS/EIR Section 3.9, *Hydrology and Water Quality*. When compared to the existing conditions of no tidal ebb and flow except through narrow culverts, the tidal flow levels would change from no tidal flow to substantial tidal flow. In Area A, north of the Ballona Creek channel, the larger, created, subtidal channels (widest and deepest) would branch into smaller distributary channels, with depths varying from approximately 2 to 4 feet below the restored marsh plain (channel bed elevations of approximately 1.2 to 3.2 feet NAVD 88) (see Draft EIS/EIR Section 2.2.2.1 under the heading "Ballona Creek Channel Realignment" and subheading "Tidal Channels"). The smaller intertidal channels would drain at low tide. See Section 2.2.2.2, *Flood Risk and Stormwater Management*, which compares the existing channel flow velocities to the restored channel and wetland velocities. This section shows lower velocities for the restored channel due to the presence of vegetation and the wider cross-section (approximately 2,500 feet plain); however, the wider restored channel/wetland cross-section is



expected to maintain similar flow conveyance and maximum water surface elevations compared to baseline conditions.<sup>36</sup> Further, the hydrologic and flood control needs for the Project Site requires approval from Corps Engineering under the separate Section 408 permit process.

- AF1-12 The boardwalk trails and pedestrian paths are shown in Draft EIS/EIR Figure 2-23 as part of the public access plan. The boardwalk trails do not show up in Figure 2-1, which shows the proposed habitats, including the developed areas. The boardwalk trails are not shown as developed in Figure 2-1 because habitat would exist under the boardwalk trails. As mentioned in Response AF1-10, new pedestrian boardwalks would be elevated above habitats by approximately 5 feet to avoid direct and indirect effects to resources and wildlife, and allow unimpeded wildlife movement beneath features. Because the boardwalk trails are not depicted in Figure 2-1, the developed pedestrian paths appear as spur trails, i.e., they lack their connection to the elevated boardwalks. Regarding the recommendation that spur trails be used instead of loop trails because trail use of spur trails would result in less impacts to the wildlife in the restored habitats, it is CDFW's position that it is difficult to accurately assess such impact. It would depend on the level of use, the type of wildlife in the restored habitat, and the trail's configuration and materials used. That said, CDFW points out that when comparing the two trail types and their impact on wildlife from pedestrian use, a spur trail could have double the use of a loop trail; out and back on a spur trail as compared to a loop trail which would disperse the use over a larger area. Ultimately, CDFW will take into account trail design during final project design and in securing permits from the Corps and other agencies.
- AF1-13 Existing vegetation management activities (described in Draft EIS/EIR Appendix B5, *Preliminary Operations and Maintenance Plan*) would be continued under the restoration. These activities are generally conducted by hand and benefit the habitat (e.g., invasive removal or hand planting). The more invasive management activities, such as those needed for inspection of the levees, would not be needed regularly (see, e.g., Draft EIS/EIR Appendix B5).

All vegetation maintenance on the levees for levee management and fire fuel management aims to retain as much upland habitat as authorized, including native grasses and shrubs. A footnote has been added to Draft EIS/EIR Table ES-2 to clarify that areas requiring annual vegetation management were mapped as upland habitat which includes both native upland habitat as well as invasive monoculture.

Additionally, such areas, though subject to infrequent management, are important to wildlife species such as burrowing owls and ground squirrels that rely on the availability of relatively short grasslands. Both of these species thrive under management conditions such as grazing and mowing that result in short stature vegetation. Mapping grasslands or similar habitats that may be mowed or otherwise

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<sup>36</sup> Phillip Williams and Associates, Ltd (PWA), 2013a. Ballona Wetlands Restoration Project, Preliminary Design Report. Prepared for California State Coastal Conservancy, May 8.



maintained as “developed” habitat does not accurately reflect the habitat values that CDFW believes would be retained in these areas.

- AF1-14 In the Draft EIS/EIR, the terms seasonal wetland and non-tidal salt marsh are used interchangeably. See the discussion of non-tidal salt marsh in Draft EIS/EIR Section 3.4, *Biological Resources*, under the heading “Nontidal Salt Marsh.” The following language has been added as a footnote to Draft EIS/EIR Table ES-2 to make this use of language clear:

Seasonal wetland and non-tidal salt marsh are used interchangeably and included as non-tidal salt marsh in this table.

- AF1-15 The restoration acreages in Draft EIS/EIR Table 2-3 were derived using Figure 2-1 (Phase 2 proposed habitats) and 2-4 (Phase 1 proposed habitats). A footnote has been added to Table 2-3 explaining that the acreage of proposed coastal sage scrub habitat restoration would be approximately 39 acres as described. At this point in the design, the best location of the coastal sage scrub has not been determined, so it is not included in the map.
- AF1-16 Under existing conditions, the salt pan is inundated by muted high tides. Once West Area B has a fully tidal connection to Ballona Creek, as proposed in Alternative 1, the inundation of the salt pan would increase. The berm is designed to maintain the existing inundation regime once tide levels increase in West Area B. See Draft EIS/EIR Figure 1-1, Tidal Inundation and Section 10 Waters, which is approximately 4.75 feet. NGVD mean high tide. The proposed salt pan berm around West Area B would limit, but not cut off, tidal Section 10 water inundation to the area (Draft EIS/EIR Figure 3.4-19, Alternative 1 impacts to wetland and non-wetland waters of the United States). Under Alternative 1, Phase 2, the “berm would be constructed with 20:1 H:V slope up to 7.5 feet NAVD 88 to allow only the highest tides to overtop into the salt pan. The berm would be designed so that during spring tides, tide water would shallowly flow over the crest of the berm and/or sections of the berm that are slightly lower elevation overflow ‘spillways.’” As described in Draft EIS/EIR Section 2.2.2.1, *Alternative 1: Ecosystem Restoration*, under the heading “Phase 2 Restoration” and subheading “Salt Pan Perimeter Berm and Restoration,” “with the adjacent topography generally around 4 feet NAVD 88, the berm would be approximately 3.5 feet high.”

As detailed in Draft EIS/EIR Section ES.4.1, *Alternative 1: Full Tidal Restoration/Proposed Action*, reconnecting the creek to West Area B and building a berm around the salt pan would allow the salt pan to be maintained with up to 2.1 feet of sea-level rise, which is anticipated to occur between the years 2050 and 2070. Additionally, the berm and levee also would provide space for the marsh to migrate upslope.

- AF1-17 The purpose of the proposed berm (Structure 7) near the Freshwater Marsh, as shown in Draft EIS/EIR Figure 2-1, is to increase brackish marsh habitat by more than 5 acres and accommodate higher managed water levels. The Freshwater Marsh has an



- existing berm barrier around its southern edges that contains flows. The three water control structures (culverts and weirs) with tide gates would allow managed increased flow into the marsh, and balanced flow out of the marsh to Southeast Area B. A new berm would be installed (Figure 2-2, Grading Plan), but two culverts would allow drainage of water between the existing ('grade to remain') berm and Southeast Area B, providing necessary circulation to avoid a stagnant still pond effect. The commenter's recommendation to remove this structure from the Project is noted and will be considered as part of CDFW's decision-making process.
- AF1-18 The existing Fiji Ditch in North Area C would be realigned to capture all flows in North Area C and restored to support riparian habitat. As described in Draft EIS/EIR Section 1.2.1, *Location of the Project Site*, the existing Fiji Ditch in North Area C is connected to Fiji Ditch in Area A only "when the water is high enough to top the catchment ['overflow culvert'] at Lincoln Boulevard." Therefore, the majority of stormwater flow that supports Fiji Ditch in North Area C would remain. In addition, "the transition from the upland area to the riparian corridor would be a 10:1 H:V (height, vertical) slope that is approximately 10 to 20 feet wide" and includes a 1-foot-deep low-flow channel (Section 2.2.2.1, *Alternative 1: Ecosystem Restoration*, under the heading "North and South Area C"). The proposed topography would vary from the current topography of the narrow ditch and thus allow water to inundate a wider channel floodplain to support more riparian habitat more suitable for vireo. "In the northwest corner of North Area C, a settling basin would be constructed within Fiji Ditch just before the culvert under Lincoln Boulevard to remove sediment and contaminants from stormwater" (Alternative 1: Flood Risk and Stormwater Management under the heading "Flood Risk Management Features" and the subheading "Area C") which may also contain more stormwater runoff in the riparian corridor before overflowing into Area A Fiji Ditch. In Alternative 1, the 0.3-acre permanent impacts to vireo habitat in Fiji Ditch in Area A would be offset by a net gain of 2.9 acres of vireo habitat in North Area C, resulting in no net loss to vireo habitat. Other existing habitat in Fiji Ditch in Area A would be enhanced and maintained, providing additional benefits to vireo.
- AF1-19 The adverse impacts and net gains in habitat area described throughout the Draft EIS/EIR provide comparable changes and would ultimately result in net restoration. Under Section 2.2.2.6, *Alternative 1: Monitoring and Adaptive Management*, initial performance criteria for restored native habitats are provided in Table 2-12, Tidal Marsh Performance Criteria, through Table 2-20, Upland Scrub and Grassland Performance Criteria, and provide specific quantitative criteria. The selected project design will be the restoration objective, and will be tracked by the performance criteria. "An adaptive management plan would be prepared prior to project implementation to track restoration success relative to performance criteria and determine when criteria have been met" (Section 2.2.2.6, *Alternative 1: Monitoring and Adaptive Management*, under the heading "Adaptive Management").

- AF1-20 The proposed restoration includes re-establishing high value rare coastal habitat known to require longer restoration periods to reach full function. The performance criteria used for the restoration of fish, birds, and macroinvertebrates, whereby at 8-10 years post-restoration, metrics such as species richness and abundance are anticipated to exceed pre-Project conditions, consistent with realistic expectations for these resource types.

Habitats under the restoration alternatives would also be susceptible to sea-level rise through 2100 and beyond, but they would be more resilient than under the No Project Alternative. For example, the persistence of the salt pan habitat is expected to be extended by approximately 10 years directly due to the berm proposed in Alternative 1 (Draft EIS/EIR Appendix B7). Additionally, the broad transitional slopes between wetland and upland habitats are intended to increase the resiliency of the restored wetlands to future sea-level rise and allow wetland habitats to transgress up slope with rising sea levels. Providing space for marsh transgression is considered a restoration “best practice.”<sup>37</sup>

Figure 14 of Draft EIS/EIR Appendix F9 illustrates the spatial extent of wetland habitat over time for both the No Project and Project alternatives. The habitat acreages at each time step have not been quantified due to the uncertainty of how certain habitats (e.g., brackish, willow, seasonal wetlands) may evolve. However, the qualitative assessment of how salt marsh, mudflat, and subtidal habitats will evolve based on existing and proposed topography is presented in Figure 14 of Draft EIS/EIR Appendix F19, and shows that the Project would provide more salt marsh habitat compared to the No Project Alternative at each time step.

- AF1-21 The Fiji Ditch settling basin was included in Draft EIS/EIR Figure 2-42, but was very small. CDFW understands how it may have been missed. Accordingly, CDFW has revised Figures 2-41 and 2-42 to clarify its presence and to more clearly denote the proposed 35-foot temporary access route, pedestrian trails/ boardwalk locations, and the Fiji Ditch in Area A and proposed Fiji Ditch in North Area C. Revised Figures 2-41 and 2-42 are provided in Final EIR Appendix E. The proposed 35-foot temporary access route would not be a constant feature and its location would depend on existing habitat at the times maintenance is needed (e.g., to avoid sensitive species). As a result, this location is too speculative to include at this time. The impacts for this route are covered by the conservative assumptions for the limits of disturbance for other work.
- AF1-22 See Draft EIS/EIR Appendix F, *Hydrology and Water Quality Report*, showing sediment budgets and movement through the site. Generally proposed conditions on Figure 9 in Appendix F show both aggradation and erosion quantities that vary depending on the section of channel in question. The Project similarly would provide flood control berms and levees along portions of the proposed Creek of varying

<sup>37</sup> Fejtek, S., Gold, M., MacDonald, G., Jacobs, D., Ambrose, R. 2014. Best Management Practices for Southern California Coastal Wetland Restoration and Management in the Face of Climate Change. University of California Los Angeles, Institute of the Environment and Sustainability.



protection that are designed for the expected flow and sediment rates. Figure 22 in Appendix F shows the sediment deposition between 1959 and 2012 in Ballona Creek. Under Alternative 1, water flow distribution would broaden allowing sediment to slow and drop out more than in existing conditions. The purpose of not re-burying any potentially future unburied armoring, would be to avoid impacts to all restored resources.

AF1-23 As provided in Draft EIS/EIR Appendix F5, *Water Quality Technical Report*, the Ballona Creek Watershed covers approximately 130 square miles and drains predominantly urbanized areas. As shown in Draft EIS/EIR Section 3.9, *Water Quality*, Table 3.9-2 lists the 303(D) pollutants in Ballona Creek upstream of the Project Site. The Los Angeles Regional Water Quality Control Board has regulatory authority over the control for upstream pollutants from stormwater flow. Thus, Total Maximum Daily Loads (TMDLs) for bacteria and metals in the water column have been developed to address exceedances of these constituents in Ballona Creek, and are regulated by permit action. The proposed on-site pre-treatment basins, however, are primarily intended to capture adjacent runoff as shown in Draft EIS/EIR Appendix B (copied below), which can contain pollutants as listed in Table 3.9-2:

- **Area A** – collecting runoff from the Fiji Way parking lot at the west end of Area A.
- **West Area B** – collecting runoff from the West Culver parking lot.
- **South & Southeast Area B** – five basins collecting runoff from storm drains discharging areas along the Westchester Bluffs.
- **North Area C** – Along the realigned Fiji Ditch prior to discharge across Lincoln Boulevard.
- **West Area B** – collecting runoff from Culver Boulevard just north of Nicholson Street. This basin will serve for water quality treatment and peak flow attenuation with sufficient volume function for the 100-year flood event to mitigate existing flooding issues along Culver Boulevard.

Additionally, regarding the concern that the basins would preclude sediment from reaching restored habitats, as indicated in Draft EIS/EIR Appendix B5, if removal of sediment from the basins is required, it would be evaluated and tested for potential reuse on-site.

AF1-24 As described in footnote number three in Draft EIS/EIR Section ES.3.1, *Purpose and Need under NEPA*, “The Ballona Creek channel was designed in the 1930s, and documentation for the original design capacity is limited. LACFCD design drawings (1959) and as-builts (1963) for later work on the segment of the Ballona Creek channel within the Ballona Reserve indicated a design discharge of 49,500 cfs. Documentation for other, subsequent projects refers to a Standard Project Flood (SPF) flow of 46,000 cfs, which was first computed by the Corps in the 1950s (U.S. Army Corps of Engineers LA District 1979). The SPF figure was later revised in draft documents to identify a future, unrestricted SPF of 68,000 cfs (U.S. Army Corps of



Engineers LA District 1979). The authorized design discharge will be confirmed by the Corps during the permitting process for the Project, but would not be higher than 68,000 cfs.” Also, as described under Draft EIS/EIR Impact 1-WQ-4, “Since Alternative 1 would raise the existing levee if that future modeling for the 408 permit determines Alternative 1 is raising flood levels in the vicinity of West Area B, there would be no increased flood risk downstream of the site.”

The Corps Section 408 process would determine the existing flood control levels and their sufficiency. Corps Engineers to-date have not proposed the need for additional flood protection measures at Ballona Wetlands.

- AF1-25 Table 2-3 identifies the upland “invasive monoculture” stands separately from wetlands stands, which the table identifies as a component of “non-tidal marsh.”
- AF1-26 According to Draft EIS/EIR Appendix D, a population of non-federally listed southern tarplant (*Centromadia* [=*Hemizonia*] *parryi* ssp. *australis*) was reported in 1995 in the area east of the Area C ball fields<sup>38</sup> which is overall upland habitat. The Appendix D3 table entitled “Study Area Plant List” denotes southern tarplant was observed in 2002 in the Playa Vista Master Species list prepared by Dr. Edith Read (unpublished). Rare plant surveys in 2010 and 2011 did not detect the species in the project area, suggesting this species is absent from the project area. The CNDDDB reports 87 populations of southern tarplant statewide with two populations located outside the Ballona Reserve, about 4 miles northeast and southeast of the Reserve. The Draft EIS/EIR presumed that impacts would only occur to rare plants that occur on the Project Site, and southern tarplant was not identified during focused surveys in 2010 and 2011. Based on this species’ historic presence at the Reserve, Draft EIS/EIR Table 3.4-3, Special-Status Plant Species Known to Occur or Potentially Occurring in the Project Site, has been revised to add southern tarplant to the list. Mitigation Measure BIO-1b-i (Special-Status Plants) would provide comprehensive rare plant surveys prior to construction to identify any occurrences of this and other rare plant populations. Hence, surveys for this species, and western dichondra, discussed below, would be provided and impacts would be avoided or minimized to any identified plant populations.

The Study Area Plant List by Survey Effort in Draft EIS/EIR Appendix D3 denotes the non-federally listed western dichondra (*Dichondra occidentalis*) was observed in 1991 (Henrickson, J. Draft Botanical Resources of Playa Vista) and 2002 (Playa Vista Master Species list by E. Read (unpublished)), while 2010 and 2011 surveys did not detect the species. The study area contains coastal scrub habitat that may be suitable habitat for the species. Draft EIS/EIR Table 3.4-3 has been revised to add western dichondra. Preconstruction surveys and avoidance and minimization measures for this species are provided by Mitigation Measure BIO-1b-i.

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<sup>38</sup> Philip Williams & Associates, LTD (PWA). 2006. Ballona Wetland Existing Conditions Draft Report. Prepared for: California State Coastal Conservancy.



- AF1-27 Draft EIS/EIR Table 3.4-4 lists both state and federally listed species. CDFW agrees that western snowy plover are a regular migrant through the Ballona Reserve and an overwintering visitor. Though this species' use of the Project Site is transient and in a non-breeding capacity, the species has been added to Table 3.4-4.
- AF1-28 See Draft EIS/EIR 3.4.2.2 Environmental Setting. Low-quality Pacific pocket mouse (PPM) habitat does occur within the Project site (Table 3.4-1). The PPM has not been observed or captured within the Project site since 1938 (CDFW 2014). Surveys for small mammals (including PPM) were conducted in 1981, 1991, 1996, 2000, 2001, 2006, 2007, 2009, and 2010. No PPM were observed or captured during any of these trapping efforts. These surveys were conducted in suitable habitat using Sherman traps which according to a study conducted by the USGS (2010) is a standard proven method for detecting PPM and other rodents.<sup>39</sup> Furthermore, this study determined that use of live-traps (Sherman traps) had a high probability of detection when species are present. CDFW contacted the USFWS (Carlsbad Office) to obtain information on survey protocol. According to the USFWS, there is no specific survey protocol for the PPM.
- AF1-29 As described in Draft EIS/EIR Section 3.4.6, *Direct and Indirect Impacts to Biological Resources*, the direct and indirect impacts are based on the content identifying aquatic and non-aquatic habitat and species presence or suitable habitat throughout the document. Conversion of habitat types are tallied in detail and tables and maps in great specificity. Pre-construction species surveys will be required to re-assess species presence and location. Draft EIS/EIR Table ES-3, Summary of Environmental Consequences, provides a detailed summary of direct and indirect, as well as temporary and permanent impacts for Biological Resources. CDFW understands that any additional detail regarding effects to federally listed species will be completed in Section 7 Endangered Species Act consultation to be undertaken by the Corps. Other than the additional detail appearing below in Response AF1-30, it is unclear what specific sections in the page range that the commenter has concerns with, and as a result CDFW is unable to provide a more detailed response.
- AF1-30 See Response AF1-29. Regarding the first specific issue in the comment, as indicated in Draft EIS/EIR Section 2.2.2.6, *Alternative 1: Monitoring and Adaptive Management*, a 10-year monitoring and adaptive management program would be implemented as part of the Project to help ensure Lewis' evening primrose would be replaced at a 1:1 ratio (see Draft EIS/EIR Appendix B3 for more detail regarding adaptive management measures if performance goals are not being met).

In response to the second specific issue, Mitigation Measure BIO-li-i is applicable to post-restoration activities. For example, under the heading "Post-Restoration" in the discussion of Impact 1-BIO-li, the analysis states that "[p]otential nesting impacts could be reduced to less than significant through implementation of Mitigation Measure BIO-li-i (Nesting Bird Raptor Avoidance)." Furthermore, as described

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<sup>39</sup> USGS, 2010. Pacific Pocket Mouse Sampling Methodology Study, Marine Corps Base, Camp Pendleton. USGS Reston Virginia, 2010.



under the same “Post-Restoration” heading, a Post-restoration Management Plan would be implemented through Project Design Feature BIO-3. As required by BIO-3, the Post-restoration Management Plan would be based on the Conceptual Habitat Restoration and Adaptive Management Plan (Draft EIS/EIR Appendix B3), which provides various measures to protect sensitive habitats and wildlife species from public access (e.g., seasonal trail closures, wildlife friendly fencing, plantings of spiny native plants, etc.).

As for the third specific issue in the comment, CDFW thinks it more appropriate to use the word “could” instead of “would” because, as mentioned in Draft EIS/EIR Section 2.2.2.6, “[i]t should be understood that some level of uncertainty will always be present, and performance criteria may require modification based on an improved understanding of habitat development, ecosystem function, or species requirements.”

- AF1-31 As described in Draft EIS/EIR Section 2.2.2.7, *Operation and Maintenance*, the Project’s operations and maintenance activities are expected to be similar to existing maintenance. The Project intends to improve habitat conditions in areas immediately adjacent to the maintenance areas due to the project objectives to increase habitat and its quality across the Project Site while providing public access along designated areas. Impacts to various biological resources are discussed for each analyzed topic under the “Post-Restoration” heading. To extent that the comment may be requesting an analysis of impacts to habitat that does not currently exist but is anticipated to exist in the future after implementation of an alternative, CEQA does not require such an analysis. Moreover, such analysis would be speculative and not be informative to the decision making process.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street  
San Francisco, CA 94105-3901

February 1, 2018

Dr. Daniel P. Swenson  
U.S. Army Corps of Engineers, Los Angeles District  
Regulatory Division  
915 Wilshire Boulevard, Suite 930  
Los Angeles, California 90017-3401

Subject: Ballona Wetlands Restoration Project Draft Environmental Impact Statement /  
Environmental Impact Report, Los Angeles County, California (EIS No. 20170190)

Dear Dr. Swenson:

The U.S. Environmental Protection Agency (EPA) has reviewed the Ballona Wetlands Restoration Project Draft Environmental Impact Statement / Environmental Impact Report pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act.

AF2-1

EPA supports wetland habitat restoration in the Ballona Reserve, especially in the context of efforts to meet the 2012 Ballona Creek Wetlands Total Maximum Daily Loads for Sediment and Invasive Exotic Vegetation (TMDL). According to the Draft Environmental Impact Statement (DEIS), the Corps of Engineers is considering issuing a permit under Clean Water Act Section 404 and Sections 10 and 14 of the Rivers and Harbors Act to the California Department of Fish and Wildlife, which seeks to restore wetlands and wetland functions within the Ballona Reserve, restore and improve public access to the Reserve, and maintain existing levels of flood risk management, while working towards achieving the goals of the TMDL.

AF2-2

AF2-3

EPA has rated the action alternatives and the document as *Lack of Objections* (LO). Please see the enclosed "Summary of EPA Rating Definitions." The enclosed detailed comments provide recommendations to help compare the alternatives and clarify discussions in the EIS about ocean disposal, water quality, and other impacts.

AF2-4

EPA appreciates the opportunity to review this Draft EIS. When the Final EIS is released for public review, please send one copy to the address above (mail code: ENF-4-2). If you have any questions, please contact me at (415) 972-3521, or contact Jean Prijatel, the lead reviewer for this project, at (415) 947-4167 or [prijatel.jean@epa.gov](mailto:prijatel.jean@epa.gov).

Sincerely,

A handwritten signature in blue ink, which appears to read "Kathleen Martyn Goforth", is written over a horizontal line.

Kathleen Martyn Goforth, Manager  
Environmental Review Section



Enclosures: Summary of EPA Rating Definitions  
EPA's Detailed Comments

cc: Richard Brody, California Department of Fish and Wildlife  
Jenny Newman, Los Angeles Regional Water Quality Control Board  
Bryant Chesney, National Marine Fisheries Service  
Christine Medak, U.S. Fish and Wildlife Service

### **SUMMARY OF EPA RATING DEFINITIONS\***

This rating system was developed as a means to summarize the U.S. Environmental Protection Agency's (EPA) level of concern with a proposed action. The ratings are a combination of alphabetical categories for evaluation of the environmental impacts of the proposal and numerical categories for evaluation of the adequacy of the Environmental Impact Statement (EIS).

#### **ENVIRONMENTAL IMPACT OF THE ACTION**

##### ***"LO" (Lack of Objections)***

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

##### ***"EC" (Environmental Concerns)***

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

##### ***"EO" (Environmental Objections)***

The EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

##### ***"EU" (Environmentally Unsatisfactory)***

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).

#### **ADEQUACY OF THE IMPACT STATEMENT**

##### ***"Category 1" (Adequate)***

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

##### ***"Category 2" (Insufficient Information)***

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analysed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

##### ***"Category 3" (Inadequate)***

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analysed in the draft EIS, which should be analysed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

\*From EPA Manual 1640, Policy and Procedures for the Review of Federal Actions Impacting the Environment



**EPA DETAILED COMMENTS ON THE BALLONA WETLANDS RESTORATION PROJECT DRAFT ENVIRONMENTAL IMPACT STATEMENT / ENVIRONMENTAL IMPACT REPORT, LOS ANGELES COUNTY, CALIFORNIA – FEBRUARY 1, 2018**

**Marine Protection, Research, and Sanctuaries Act**

Each of the action alternatives proposes off-site disposal of varying amount of sediment at either a landfill or one of two ocean disposal sites (page 3.9-53). The Draft EIS identifies LA-2 and LA-3 – two ocean disposal sites designated by EPA Region 9 under the Marine Protection, Research, and Sanctuaries Act (MPRSA) – as unconfined disposal options for sediments not reused onsite. Only dredged material is eligible to be disposed of at MPRSA ocean disposal sites (33 USC 1413). The Clean Water Act (CWA) 404 regulations define dredged material as material excavated from waters of the U.S. (33 CFR 323.2(c); therefore, sediments must be either excavated from below the Mean High Water (MHW) elevation or previously dredged from waters of the U.S. to be eligible for ocean disposal consideration. Vegetation, including roots, is not eligible for ocean disposal and must be removed prior to disposal. In areas with substantial vegetation cover, this generally means the top 2-3 feet of material is not eligible for ocean disposal.

AF2-5

***Recommendation:*** Disclose in the Final EIS how much of the material to be excavated is below the MHW and how much can be clearly documented as previous dredged material. Update the discussion in the Hydrology and Water Quality Section to clearly state that (1) material not meeting either of these two criteria is not eligible for disposal at LA-2 or LA-3 and, (2) vegetation, including roots, is not eligible for ocean disposal and will be removed prior to disposal.

Prior to disposal, EPA must concur, in writing, on the suitability of material for ocean disposal and provide site use conditions, which must be included in the MPRSA Section 103 permit. EPA will only concur on ocean disposal of suitable (non-toxic) sediments after consideration of alternatives to ocean disposal, including beneficial reuse of sediments to the maximum extent practicable. The Draft EIS does not identify EPA's role in concurring on and providing special conditions for the USACE issued ocean disposal permit.

AF2-6

***Recommendation:*** In Chapter 1 of the Final EIS, identify EPA's role in MPRSA Section 103 permitting. Commit to maximize beneficial reuse of as much sediment as possible before considering any ocean disposal.

Impact 1-WQ-1 c of the Draft EIS states that "previous sediment testing indicates that material from Area A and North Area B meets the requirements for placement in ocean disposal sites" (page 3.9-53). The Draft EIS is correct that preliminary data were presented to the Dredge Material Management Team (DMMT) in January 2015; however, EPA has not determined whether the material is suitable for ocean disposal and has not concurred on ocean disposal. Mitigation Measure WQ-1a-ii briefly describes requirements for the Sampling and Analysis Plan (SAP) that would be implemented prior to construction (page 3.9-53). The SAP does not address all the Ocean Testing Manual (OTM) requirements. EPA will require full testing in compliance with the OTM prior to making a suitability determination. The material to be tested is dry and has vegetation growing on it, which will make testing more complicated than for traditional dredging projects.

AF2-7

***Recommendation:*** In the Final EIS, add OTM testing requirements to Mitigation Measure WQ-1a-ii. Document in Mitigation Measure WQ-1 c that EPA must both concur the material is suitable for ocean disposal and concur on the USACE Section 103 permit before material can be



taken to LA-2 or LA-3. Clarify that EPA has not yet determined whether any of the project material is suitable for ocean disposal. We strongly encourage early coordination with EPA Region 9 Water Division staff in developing the SAP to ensure it includes an adequate sampling approach prior to submitting the SAP to the DMMT. Please contact Melissa Scianni at (213) 244-1817 or scianni.melissa@epa.gov.

AF2-7  
cont.

### **Water Quality**

The Draft EIS discusses the requirements of the 2012 Ballona Creek Wetlands Total Maximum Daily Loads (TMDL) for Sediment and Invasive Exotic Vegetation that established a load allocation for legacy sediment removal from Area A and Area B of the project area (page 3.9-27). The TMDL, itself, acknowledges that the attainment of beneficial uses in the Ballona Creek Wetlands would require not just the removal of sediment, but also the restoration of wetland conditions and, therefore, provides alternative load allocations in the form of restored habitat acreages. The Draft EIS relies on the alternative load allocation scenario to develop a range of action alternatives that would restore wetlands in the project area, rather than simply remove sediment from the site. Although the proposed habitat acres for each alternative differ from the TMDL's alternative load allocation in both acreage quantity and distribution, EPA notes that the TMDL provides for a collaborative approach between the California Coastal Commission, California Department of Fish and Wildlife, Los Angeles Regional Water Quality Control Board (LARWQCB), and other parties to determine "multiple and varied implementation actions" to meet its requirements (TMDL page 81). EPA supports this collaborative approach to achieve the goals of the TMDL. In the Draft EIS, the project proponent commits to working with the EPA and the LARWQCB as part of the permitting and design phase of the project to ensure the proposed load allocations will meet the TMDL. EPA welcomes that opportunity for coordination.

AF2-8

***Recommendation:*** In the Final EIS, include a discussion of the outcome of coordination with the EPA and LARWQCB and describe how the preferred alternative will meet the TMDL.

### **Comparison of Alternatives**

To demonstrate the anticipated benefit of each action alternative, the Draft EIS primarily compares habitat acreage before and after restoration; however, the quality of the existing habitats is not uniform across the site, nor will habitat quality be uniform post-restoration. The discussion would be improved by identifying and comparing the anticipated net improvement from each alternative. EPA proposes that this could be accomplished using existing baseline data, known impacts, and the performance goals. Post-restoration, the performance goals and associated monitoring can be used to confirm that the selected alternative achieved the anticipated level of restoration.

AF2-9

***Recommendation:*** In the Final EIS, discuss the anticipated net improvement for each alternative, taking into consideration baseline conditions, known direct, indirect, and temporary impacts, and the performance goals. A suite of metrics, such as total bird diversity, invasive plant cover, and water quality parameters, could be used to demonstrate baseline habitat quality, impacts, and expected post-restoration habitat quality. EPA suggests the project proponents consider adding more robust performance goals for special status species and their associated habitats.

### **Erosion**

Sediment modeling included in the Draft EIS shows erosion within portions of Area A and West Area B wetlands during a 10-year storm event (Figure 3.9-10). This is identified as a less than significant impact because the erosion would not lower the elevations such that vegetation would not grow back. It is not clear in the Draft EIS whether erosion from the wetlands is expected during every 10-year or larger event and what the implications are for the wetlands if they experience on-going erosion. Channel and

AF2-10



levee armoring are included as mitigation measures for erosion in the channel, but no mitigation measures are identified for erosion within the wetlands. The Sediment Dynamics and Sediment Budget Memo (Appendix F1) recommends erosion monitoring within the wetlands, but the Adaptive Management Plan (Appendix B3) does not include such monitoring.

**Recommendations:** Clarify in the Final EIS the anticipated long-term effects of storm flows and erosion in Area A and West Area B, and discuss any mitigation measures that could reduce sediment loss from the wetlands. We suggest adding sediment elevation monitoring in the wetlands to the Adaptive Management Plan; such monitoring could be accomplished with simple methods, such as placing stakes or other elevation markers within the wetlands.

AF2-10  
cont.

### **Upland Vegetation**

Alternatives 1 and 2 involve introducing tidal flow into Southwest Area B. This area currently contains upland native vegetation (e.g. willow thicket) that is intended to remain in place. The Draft EIS does not discuss whether introducing salt water to this area will affect the native upland vegetation.

**Recommendation:** In the Final EIS, disclose any potential impacts to native upland vegetation from introducing tidal water into Southwest Area B and identify any measures that could mitigate such impacts.

AF2-11

### **Air Quality**

The Draft EIS states that the project area is in nonattainment for particulate matter 2.5 microns or less (PM<sub>2.5</sub>) under the federal National Ambient Air Quality Standards (page 3.3-10). This federal designation is correct with respect to the Annual Mean PM<sub>2.5</sub> standard; however, the project area is in serious nonattainment status for the 24 hour PM<sub>2.5</sub> standard. Please note that the de minimis threshold for PM<sub>2.5</sub> in serious nonattainment areas was recently updated to 70 tons per year.<sup>1</sup>

**Recommendation:** Correct tables and text in the Air Quality Section to show that the project area is in serious nonattainment of the 24 hour PM<sub>2.5</sub> standard, and that the de minimus threshold for PM<sub>2.5</sub> is 70 tons per year in serious nonattainment areas.

AF2-12

<sup>1</sup> 40 CFR 93.153(b)(1)



## Letter AF2: U.S. Environmental Protection Agency

- AF2 -1 USEPA's review authority under these laws and regulations is acknowledged.
- AF2 -2 USEPA's support of wetland habitat restoration within the Ballona Reserve within the context of the 2012 TMDL is acknowledged and will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.
- AF2-3 The comment accurately summarizes the applications that have been submitted for the Project. See Draft EIS/EIR Section 1.1.1 regarding the Corps' purpose and need for action. See General Response 6, *Hydrology and Water Quality* (Section 2.2.6.1), for more information about the relationship between the proposed restoration and the TMDL.
- AF2-4 USEPA's "lack of objection" rating, meaning that the agency's review identified no "potential environmental impacts requiring substantive changes to the proposal," is acknowledged.
- AF2-5 This clarification of eligibility for ocean disposal is acknowledged. Draft EIS/EIR Table 1-1, Summary of Required Permits and Approvals, summarizes permit requirements of Section 103 of the Marine Protection, Research, and Sanctuaries Act. As summarized in that table, "CDFW and LACFCD propose to dispose of excavated fill from the Project Site, potentially including offshore disposal at the USEPA designated ocean disposal site LA-2 off San Pedro or LA-3 off Newport Beach. If ocean disposal is determined to be necessary to address excess fill material, a Section 103 permit application quantifying the volume of material proposed for offsite disposal and a Sampling and Analysis Plan (SAP) would be filed for consideration by the Corps in consultation with the Los Angeles Regional Contaminated Sediments Task Force (CSTF) and the Southern California Dredged Material Management Team (SC-DMMT)." Under Project conditions, between 10,000 and 110,000 cy of excavated soil could be exported from the site for off-shore disposal (Section 1.2.2.1). Under Alternative 2, up to 10,000 cy of material could be exported for offsite (potentially including offshore) disposal (Section 1.2.2.2). Under Alternative 3, up to 1,230,000 cy of dredged or fill material could be exported for offsite (potentially including offshore) disposal (Section 1.2.2.3). A more precise quantification of the amount of material to be disposed of at a designated ocean disposal site and/or other suitable disposal site would be provided as part of the permitting process since it cannot be known with reasonable certainty at the time this Final EIR is published how much of the material would meet eligibility requirements. The requested clarification has been included in the last paragraph of Draft EIS/EIR Section 3.9.5.1, *Hydrology and Water Quality*.
- AF2-6 The discussion of the MPRSA Section 103 permit requirement in Draft EIS/EIR Table 1-1 has been revised to accurately describe USEPA's role in the Section 103 permit process. The request that CDFW commit to maximizing beneficial reuse of as much sediment as possible before considering an ocean disposal option is



- acknowledged. See Draft EIS/EIR Section 2.1.1.2, which explains, under the heading “Summary of NEPA and Section 404(b)(1) Guidelines Considerations,” that a Marine Protection Research and Sanctuaries Act Section 103 permit application would be filed “[i]f ocean disposal is determined to be necessary.” See same under the heading “Phase 1” in Section 2.2.2.5 regarding the Project. As discussed under the heading “Off-Site Soil Export” in Section 2.2.2.5 regarding the Project, offshore disposal may not be necessary because there are two other offsite soil export options.
- AF2-7 Draft EIS/EIR Section 3.9.5.1 has been revised to clarify that USEPA has not determined whether onsite materials are suitable for ocean disposal and has not concurred on ocean disposal. As stated in Section 3.9.5.1, “Further testing of the sediments would occur as part of the final permitting for off-site disposal in accordance with the ITM and OTM guidelines.” Because the Draft EIS/EIR already acknowledges that more could be required to comply with Ocean Testing Manual testing requirements, the requested change to Mitigation Measure WQ-1a-ii, Sampling and Analysis Plan (SAP), has not been made. The suggestion that early coordination with USEPA Region 9 Water Division staff occur in developing the SAP is acknowledged, would occur as part of a Corps permit, and will be considered in CDFW’s decision-making process.
- AF2-8 See General Response 6, *Hydrology and Water Quality* (Section 2.2.6.1), for more information about the relationship between the proposed restoration and the TMDL.
- AF2-9 CDFW has considered the suggestion that identifying and comparing anticipated respective net improvements would improve the discussion of the comparison of alternatives and note that the plan is, as suggested, to compare pre- and post-restoration conditions relative to established performance goals. See, e.g., Draft EIS/EIR Section 2.2.2.1 (“ecosystem restoration under Alternative 1 would occur in two phases, which would be implemented using an adaptive management approach. After implementation of Phase 1, restored habitats would be monitored and evaluated against performance goals, namely: native vegetation establishment, improved hydrology, and sensitive species use, with Belding’s savannah sparrow’s use as a proxy for success. This is discussed further in Section 2.2.2.6, Alternative 1: Monitoring and Adaptive Management”).
- Existing baseline data (the “affected environment”) and potential impacts are described on a resource-by-resource basis throughout Draft EIS/EIR Chapter 3, *Environmental Consequences*. Established performance goals are identified in Section 2.2.2.6 and in the Conceptual Habitat Restoration and Adaptive Management Plan is provided in Appendix B3. As explained in Draft EIS/EIR Table 2-2, “Performance goals for the restoration shall not focus on specific acreages or specific species, but shall focus broadly on habitat development, species composition, and, ecosystem functions.” Appendix B3 summarizes existing conditions, describes the environmental and ecological environment, describes the proposed restoration design and implementation, and identifies a monitoring and adaptive management program



that includes reference sites, monitoring, performance goals, and data management and analysis for the various habitat types. The comment does not provide sufficient specificity to determine which of these habitat types would benefit from more robust performance goals. Given the stated intention that restoration performance goals focus broadly on habitat development, species composition, and ecosystem functions rather than on specific acreages or specific species, CDFW has elected not to revise the Draft EIS/EIR in response to this comment.

- AF2-10 As discussed in Draft EIS/EIR Section 3.9.6.1 under Impact 1-WQ-1a, erosion of the marshplain is expected to occur for storm events greater or equal to the 10-year event. However, these events would occur infrequently with less than a 10 percent chance of occurrence every year. Section 3.9.6.1 under 1-WQ-3b explains that while some wetland vegetation could scour away during these larger events, this erosion is typical for this type of system. Erosion of vegetated wetland area would result in a temporary loss of vegetation; however, the wetland surface would remain at an elevation at which vegetation could naturally re-establish and recover following the storm event. Although sediment elevations are not expected to be permanently reduced, sediment elevation monitoring is included in Appendix F11 of the Draft EIS/EIR.
- AF2-11 In Draft EIS/EIR Section 3.4.6.1, Impact 1-BIO-1 evaluates impacts to upland native vegetation with respect to special-status wildlife or plants that are known to occupy or could potentially occupy upland native vegetation. Each of the restoration alternatives would allow existing willow/mulefat thicket and stabilized dune habitat in Southeast Area B to remain following site restoration and would not result in an impact either during the restoration/construction process, or as a result of saltwater exposure. A comparison of Figure 3.4-2, Study Area Habitat Types, with Figure 2-4, Alternative 1, Phase 1: Proposed Habitats, shows that the willow/mulefat thicket and stabilized dune areas would not be subject to grading. The avoidance and retention of these habitats following site restoration also would be required to meet mitigation objectives. For example, Impact 1-BIO-1k discusses impacts to least Bell's vireo habitat, which includes willow/mulefat thicket located in Southeast Area B, and Mitigation Measure BIO-1k requires avoidance of all willow riparian habitat and requires post-restoration monitoring to ensure tidal habitats would not adversely affect the survival or health of the willow thickets. Freshwater sources from the adjacent Freshwater Marsh to the east would continue to supply water to willow habitat in Southeast Area B, thereby alleviating any habitat impacts related to increased salinity from the conversion of nearby areas to full tidal action. Therefore, the willow/mulefat thicket would not be located directly in areas that are under tidal influence. It is common for estuarine systems to have willow fringe on their upstream extent. As a result, due to the fact that willow and mulefat would not be located in areas under direct tidal influence, the proximity of the willow/mulefat thicket to areas with tidal influence would not be outside of the range of normal conditions for willow and mulefat.





In Draft EIS/EIR Section 3.4.6.1, Impact 1-BIO-2 evaluates impacts to sensitive natural communities including southern willow scrub (1-BIO-2d) and southern dune scrub (1-BIO-2e), and identifies appropriate mitigation measures.

Similarly, Draft EIS/EIR Section 3.4.6.2, Impact 2-BIO-1 evaluates impacts to upland native vegetation with respect to special-status wildlife or plants, and Section 3.4.6.2, Impact 2-BIO-2 evaluates impacts to sensitive natural communities.

- AF2-12 Draft EIS/EIR Table 3.3-3 has been revised to reflect that the air quality study area is designated as “serious nonattainment” for PM<sub>2.5</sub> NAAQS. The *de minimis* threshold for PM<sub>2.5</sub> in Table 3.3-4 has been updated to the recent updated value of 70 tons per year. The *de minimis* threshold for PM<sub>2.5</sub> has been updated to 70 tons per year in Tables 3.3-9, 3.3-10, 3.3-15, 3.3-16, 3.3-21, and 3.3-22. Revisions did not result any new or more significant impact than previously disclosed.



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE  
West Coast Region  
501 West Ocean Boulevard, Suite 4200  
Long Beach, California 90802-4213

February 5, 2018

U.S. Army Corps of Engineers  
Los Angeles District  
Regulatory Division  
915 Wilshire Boulevard, Suite 930  
Los Angeles, California 90017

Dear Colonel Gibbs:

NOAA's National Marine Fisheries Service (NMFS) has reviewed the Draft Environmental Impact Statement (DEIS) for the Ballona Wetlands Restoration Project (Project). In addition, NMFS has reviewed the U.S. Army Corps of Engineers (USACE) October 18, 2017, letter requesting initiation of an expanded essential fish habitat (EFH) consultation for the Project. NMFS provides the following comments pursuant to our responsibilities under the Fish and Wildlife Coordination Act (FWCA) and the Magnuson-Stevens Fishery Conservation and Management Act.

AF3-1

### **Background**

NMFS staff provided input on preliminary restoration alternatives in various planning meetings from 2004 to 2008. These meetings were intended to help produce detailed and optimized alternatives as the basis for future environmental assessment under the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA). In addition, NMFS provided comments on the Ballona Wetland Feasibility Report (Feasibility Report) dated September 2008, which was intended to provide information for screening alternatives for further analysis under NEPA and CEQA. Specifically, NMFS opined that Alternatives 4 and 5 from the Feasibility Report best met Project goals and recommended that these alternatives be analyzed further during the NEPA/CEQA environmental review process. We were most supportive of Alternative 4 because it was the only alternative that contained a significant amount of shallow subtidal habitat, and a broad, gentle slope that allowed for a significant amount of intertidal mudflat and low salt marsh habitat. This combination of habitat types provides the most value to a diverse array of fish species and also provides important foraging areas for a variety of bird species. Given that the Ballona Wetlands is the only significant opportunity for establishment of contiguous estuarine shallow subtidal and low intertidal habitats within the Santa Monica Bay eco-region, NMFS recommended that this alternative should be a high priority for further analysis. Although we supported further analysis and consideration of Alternative 5, NMFS conveyed our preliminary concerns regarding this alternative. Of greatest concern was the direct input of trash and other pollutants that would likely occur if the levees were removed and the wetland system was completely open to the direct flows of Ballona Creek. In addition, we questioned the stability of the established channel network and marsh plain given the observed high velocity storm flows.

AF3-2

AF3-3



### Proposed Project

The California Department of Fish and Wildlife (CDFW) is proposing a large-scale effort to restore, enhance, and establish native coastal wetland and upland habitats within the Ballona Reserve. The three main components of the Project are restoring wetlands and wetland functions within the Ballona Reserve, restoring and improving public access to the Ballona Reserve, and maintaining existing levels of flood risk management provided by the Ballona Creek channel and levee system. The Ballona Reserve portion of the Project site is divided into three main areas. Under existing conditions, Area A is approximately 163 acres, Area B is approximately 329 acres (including the Ballona Creek channel), and Area C is approximately 69 acres.

The EIS describes and analyzes three alternatives that would, to various extents, meet the purpose and need of the Project. The proposed federal action (Alternative 1) is intended to return tidal influence where practically feasible to achieve predominantly estuarine conditions, enhance freshwater conditions, and enhance physical and biological functions within the Ballona Reserve. Restoring wetland functions and services would reestablish native wetland vegetation and provide important habitat for a variety of wildlife species. A restored, high-functioning wetland also would benefit the adjacent marine environment and enhance the quality of tidal waters.

Under Alternative 1, the existing armored levees on a portion of Ballona Creek would be removed, and Ballona Creek would be realigned to flow in a more natural meander-shaped pattern, and the land north of Ballona Creek would be lowered to create a connected floodplain. Within the Ballona Reserve, Alternative 1 would: establish 81.0 acres of new and enhance 105.8 acres of existing native wetland waters of the U.S. (total wetland waters of the U.S. established or enhanced: 186.8 acres); and establish 38.7 acres of new and enhance 58.0 acres of existing non-wetland waters of the U.S. (total non-wetland waters of the U.S. established or enhanced: 96.7 acres). New, broadly-sloping, partially-carthen levees would surround the Ballona Reserve and protect surrounding development from potential flooding from Ballona Creek. Table 1 summarizes the permanent and temporary impacts by type of waters of the U.S. Between 2,290,000 and 2,420,000 cubic yards (cy) of dredged or fill material would be repositioned on the Project site as perimeter levees, transition zones, and upland restoration areas to allow Ballona Creek to reconnect with its historic floodplain. Fill material generated by restoration-related excavation would be redistributed primarily on-site in North Area C (up to 720,000 cy), with additional material to be relocated to South Area C (up to 300,000 cy) and exported off-site (up to 110,000 cy).

Table 1: Impact Summary

WOUS Type	Permanent loss (acres)	Permanent functional loss (acres)	Temporary Impact (acres)
Wetland	31.4	0.2	30.2
Non-wetland	5.2	5.7	25
Navigable	16.2	5.9	36.2



Alternative 2 is similar to Alternative 1, but a smaller length of the Ballona Creek channel levee would be removed. Restoration under Alternative 3 would be focused in Area A and Area C. Enhancement of Area B habitats would consist exclusively of invasive nonnative plant removal and native plantings. The existing armored levees on the Ballona Creek channel adjacent to the Ballona Reserve would remain intact. No levee breaching would occur. Instead, two new culvert water control structures would be installed within the northern Ballona Creek channel levee to support restoration of tidal circulation in Area A, but with an oxbow-shaped channel. Coastal wetland habitats similar to those proposed in Alternative 1 would be restored within the marsh plain created between a new levee along the northern perimeter of Area A and the existing Ballona Creek channel levee.

### **Fish and Wildlife Coordination Act Comments**

#### **Environmental Setting**

Section 3.4 of the DEIS describes the biological resources in the Project area and how these resources may be affected by Project activities. In addition to providing foraging habitat for birds and mammals, mudflats provide foraging habitat for various fish species and may also provide foraging for green sea turtles. Also, in contrast to the description provided for intertidal mudflats in this section, surfgrass is not typically found along the edges of mudflats. However, another species of seagrass, eelgrass (*Zostera marina*), is frequently found along the edges of mudflats in protected bays and estuaries from the low intertidal into subtidal habitat.

AF3-4

#### **Range of Alternatives**

NMFS recommends USACE and CDFW evaluate an alternative that includes additional shallow subtidal habitat, intertidal mudflat, and low salt marsh habitat in Area A with a tidal connection to Ballona Creek. Section 2.3 of the DEIS documented potential alternatives that were considered but not carried forward. One of the alternatives (Alternative 8) that was not carried forward included a significant amount of shallow subtidal habitat, intertidal mudflat, and low salt marsh habitat within Area A of the Ballona Reserve. The screening process indicated the alternative was reasonable and met the purpose, need, and overall Project purpose. However, this alternative was not analyzed further because it did not avoid impacts to existing and planned roadways, utilities, adjacent properties and uses; and the raising of Culver Boulevard and Jefferson Boulevard onto levees or a causeway would involve significant modification of regionally important infrastructure. However, the recommended tidal restoration in Area A does not require changes to the existing roadways. In addition, if the tidal connection was established through Ballona Creek, rather than Marina del Rey, such an alternative would avoid impacts to seawall structures, Fiji Way utilities, navigation and public safety.

AF3-5

A preliminary assessment of the new culvert construction associated with Alternative 4 of the Feasibility Report indicated this alternative had too many constraints to warrant further analysis (ESA 2011). However, the analysis recommended that variations of Alternative 5 of the Feasibility Report that included additional subtidal habitat and/or the existing alignment of Ballona Creek should be pursued. Consistent with this assessment and our previous comments, NMFS believes another alternative should be evaluated that includes a significant amount of



shallow subtidal, intertidal mudflat, and low salt marsh habitat within Area A, and with a tidal connection to Ballona Creek. Given that the Project area is the only significant opportunity for establishment of contiguous estuarine shallow subtidal and low intertidal habitats within the Santa Monica Bay eco-region, NMFS believes such an alternative should be a high priority for further analysis.

Furthermore, an alternative that includes a larger area of shallow subtidal habitat off the main channel also has a high potential of supporting eelgrass (*Zostera marina*). Eelgrass is a highly productive species and is considered to be a "foundation" or habitat forming species. Eelgrass contributes to ecosystem functions at multiple levels as a primary and secondary producer, as a habitat structuring element, as a substrate for epiphytes and epifauna, and as a sediment stabilizer and nutrient cycling facilitator. Eelgrass provides important foraging areas and shelter to young fish and invertebrates, food for migratory waterfowl and sea turtles, and spawning surfaces for invertebrates and fish. Eelgrass may also provide a significant source of carbon to the detrital pool which provides important organic matter in sometimes food-limited environments (e.g., submarine canyons). In addition, eelgrass has the capacity to sequester carbon in the underlying sediments and may help offset carbon emissions. Given the significance and diversity of the functions and services provided by seagrass, Costanza *et al.* (2007) determined seagrass ecosystems to be one of Earth's most valuable.

The State of California formally recognized the multiple benefits of eelgrass in Senate Bill 1363, and, among other things, declared that eelgrass protection and restoration promotes a healthier ocean for ecosystems and industry, and may be a critical strategy in enhancing California's ability to cope with ocean acidification and hypoxia. The 2013 Santa Monica Bay Restoration Plan also recognized the multiple benefits of eelgrass and indicated that it warranted additional attention in the region. The Project area may be the only opportunity to establish *Z. marina* in an estuarine ecosystem within the Santa Monica Bay eco-region, and adjacent to large, contiguous areas of diverse intertidal wetland habitats. Establishment of eelgrass habitat would specifically support Project objectives to restore, enhance, and create estuarine and associated habitats, increase biodiversity, and is consistent with the objectives to improve tidal circulation and enlarge the amount of area that is tidally inundated.

Given the unique opportunity for estuarine habitat restoration at Ballona, NMFS believes greater consideration should be given to functions and services provided by tidally influenced habitats, as opposed to non-tidal, upland, and developed areas. This is consistent with the Project's general purpose and need to increase tidal influence to achieve predominantly estuarine wetland conditions and restore coastal aquatic resources. For example, NMFS believes additional tidally influenced habitat in Area A would better meet the stated purpose and need. Additional consideration should also be given to alternatives that further reduce developed areas that are incompatible with wildlife dependent uses and public access for wetland-dependent recreation and educational activities.

#### Comparison of Alternatives

One purpose of the Project is to restore ecological functions and services within the Ballona Reserve. However, the DEIS does not explicitly discuss and evaluate the expected functions and

AF3-5  
cont.

AF3-6



↑ AF3-6 cont.

services that will be restored. Section 4.4 discusses an environmentally superior alternative and indicates Alternatives 1 or 2 would provide greater environmental benefits than Alternative 3. However, the DEIS does not explicitly describe the environmental benefits of the alternatives. When evaluating the effects of alternatives on biological resources, comparisons are primarily made according to general habitat types and special status species. NMFS recommends that the alternatives analysis more specifically evaluate the relative ability of Project alternatives to support desired ecological functions and services. Furthermore, as stated above, NMFS believes greater consideration should be given to functions and services provided by tidally influenced habitats, as opposed to upland and developed areas. Lastly, the USACE and CDFW should consider the likelihood of restoration success and functional trajectory of the restored areas when comparing alternatives.

AF3-7

#### Restoration Success and Uncertainty

In addition to not clearly describing environmental benefits, the DEIS does not substantively describe and/or analyze restoration uncertainty. Ecological responses to restoration are often difficult to predict. The USACE and CDFW may guard against unrealistic expectations of environmental benefits by better assessing the uncertainty in project outcomes. Given that the Project is expected to be the most expensive coastal wetland restoration project in southern California and the site provides the only opportunity for large-scale, estuarine habitat restoration in the Santa Monica Bay area, additional analysis of restoration uncertainty should be provided to better inform the decision-making process. Better evaluation of restoration uncertainty and consequent project risks should improve the quality of ecosystem restoration planning efforts and add value to the decision-making process for the USACE, CDFW, interested stakeholders, and the public (Yoe et al, 2010).

For example, the new dynamic hydrologic interaction proposed between Ballona Creek and the adjacent wetlands introduces uncertainty and risk to the successful restoration and establishment of estuarine wetland and associated habitats. The DEIS indicates that significant uncertainty is inherent in the hydraulic and sediment transport model results, but does not substantively analyze restoration uncertainty or the potential for undesirable restoration outcomes. In an apparent effort to reproduce a more natural meander-shaped pattern, the Project proposes to realign Ballona Creek to a “meander-shaped” channel configuration. However, various erosion protection components would be constructed along the re-configured channel banks and levees to limit natural meandering. This project feature creates dynamic hydrologic interactions between the Ballona Creek channel, wetlands within the Ballona Reserve, and the Santa Monica Bay. However, the benefits of this dynamic interaction are not clearly described.

AF3-8

In contrast, the DEIS indicates that the dynamic reconnection of the creek would cause erosion across the marsh during large storm events. Although erosion during large storm events may be typical in natural systems, the Project site is sediment supply-limited with greater potential for scour than sediment deposition. The expected future sediment budget for project conditions shows an increase in sediment export from the Ballona Creek system, and an increase in the amount of sediment deposited in the marina mouth. During a 10-year precipitation event, results show that some wetland vegetation could scour away, with 4 to 12 inches of sediment erosion over a portion of the restored wetlands in Area A and 0 to 4 inches of erosion over a portion of



the west Area B wetlands. The DEIS concludes such erosion events would only result in a temporary loss of vegetated salt marsh as wetland revegetation could re-establish and recover in between storm erosion events. However, California's Climate Adaptation Strategy (2018) indicates that the impacts of climate change have already rendered the State's 117 years of weather-related record-keeping unreliable as predictors of future events, and suggests more severe storms and extreme weather events may become more frequent. Therefore, NMFS recommends that the USACE and CDFW more carefully evaluate and estimate the synergistic risk of wetland restoration failure associated with salt marsh erosion, increased storm severity and frequency, and variable and uncertain recovery rates.

AF3-8  
cont.

In addition, the Project proposes to restore six separate areas of salt pan and four separate non-tidal marsh areas in Area A, by creating slight depressions in the transition and upland areas. However, these habitat areas are not expected to persist after 2030 given expected sea level rise. Given uncertain restoration trajectories for these habitat areas and their limited persistence, NMFS recommends additional analysis of these Project components and their ability to provide meaningful and lasting environmental benefits. Rather than establishing experimental and temporary habitats with less tidal influence, an additional increase in the amount of contiguous, tidal salt marsh in Area A may be more cost-effective and better meet Project objectives.

#### Green Sea Turtle Foraging Habitat Opportunity

As described in the DEIS, the federally threatened green sea turtle (*Chelonia mydas*) may occur in the project vicinity. Multiple sightings of green sea turtles in Santa Monica Bay, Marina del Rey, Oxford Retention Basin, and Ballona Creek have been reported to NMFS (NMFS, unpublished data). For foraging and refugia, green sea turtles in southern California appear to utilize lagoons and bays, including coastal inlets and estuaries, and urbanized river environments (MacDonald, *et al.*, 2012, Crear *et al.*, 2017). A stable isotope study indicated that East Pacific green turtles in San Diego Bay forage on invertebrates (50 percent), seagrass (26 percent), and to a lesser extent red and green algae (Lemons *et al.*, 2015). Local seagrass pastures are of great importance to green sea turtles because they provide a major food resource and serve as habitat for mobile and sessile invertebrate prey, such as sponges, tunicates, and mollusks (Lemons *et al.*, 2011). These data are consistent with studies of East Pacific green turtles outside of the U.S. jurisdiction that also demonstrate omnivorous diets (Seminoff *et al.*, 2002; Lopez-Mendilaharsu *et al.*, 2005; Amorcho and Reina, 2007; Carrion-Cortez *et al.*, 2010). Based on this information, NMFS believes seagrass and shallow subtidal habitat in estuaries may provide high quality foraging habitat for green sea turtles. Although we have limited information regarding the utilization of habitat in the Project area, a necropsy of a stranded green sea turtle found dead in the forebay of Marina del Rey showed a significant amount of unidentified plant material in the turtle's stomach, which is consistent with foraging observations described above. Given that most of the range of green sea turtles in the eastern Pacific resides in foreign countries where environmental protections are not as well developed as the U.S., we highly value opportunities to restore seagrass and shallow subtidal habitat in southern California that can provide safe and productive developmental habitat for green turtles in U.S. waters as a key component of species recovery. The DEIS indicated that Ballona Creek and Ballona Reserve do not support required water temperatures and food resources to support foraging habitat for green sea turtles. However, NMFS believes water temperatures in the Santa Monica Bay region are suitable for green sea

AF3-9



turtle foraging as evidenced by multiple sightings in the general area and expert opinion (Seminoff, pers. comm.). Moreover, given our observations of habitat utilization in other southern California bays and estuaries, NMFS believes the alternative we recommended for further evaluation has the potential to provide high quality green sea turtle foraging habitat.

AF3-9  
cont.

**Magnuson-Stevens Fishery Conservation and Management Act Comments**

The Project area contains essential fish habitat (EFH) for a variety of fish species within the Coastal Pelagic Species and Pacific Coast Groundfish Fishery Management Plans. In addition, the Project area contains estuarine habitat, which is designated as a habitat area of particular concern (HAPC) for various federally managed fish species within the Pacific Groundfish FMP. HAPC are described in the regulations as subsets of EFH which are rare, particularly susceptible to human-induced degradation, especially ecologically important, or located in an environmentally stressed area. Designated HAPC are not afforded any additional regulatory protection under MSA; however, federal projects with potential adverse impacts to HAPC will be more carefully scrutinized during the consultation process.

AF3-10

NMFS generally concurs with the USACE's determination that the Project may have a substantial temporary adverse impact associated with Project construction, but may result in long-term benefits to EFH. Specifically, the Project would result in a net increase in the quantity of EFH by restoring and creating estuarine HAPC. In addition, the Project has the potential to increase the quality of existing EFH by re-establishing tidal connectivity between Ballona Creek and adjacent habitat. However, this dynamic hydrologic reconnection is expected to increase erosion and turbidity in the Project area, which may result in adverse impacts to EFH.

Consistent with our FWCA comments, NMFS believes additional analysis would provide better information for development of EFH Conservation Recommendations. Specifically, NMFS believes additional analysis is needed to 1) describe and evaluate which alternative provides the most environmental benefits and 2) evaluate restoration uncertainty. Given the potential for increased erosion and turbidity and the resulting adverse impacts on existing EFH, the additional analysis should better inform the relative benefits and disadvantages of the dynamic hydrologic reconnection associated with the new meander-shaped channel and levee system. In addition, NMFS believes an alternative that includes additional shallow subtidal, mudflat, and low intertidal marsh habitat in Area A would further increase the quantity and quality of EFH in the Project area, and also meet the Project's stated purpose and need. Such an alternative may also support the establishment of eelgrass, which is another designated HAPC for various federally managed fish species within the Pacific Groundfish FMP. Therefore, pursuant to §600.920(i)(5), NMFS requests additional time for expanded EFH consultation and that the additional analysis described above be incorporated into a revised EFH Assessment to better inform the development of EFH Conservation Recommendations. Consistent with an expanded EFH consultation timeline, we request 60 days after receipt of the revised EFH Assessment to provide our final analysis and recommendations.

AF3-11

AF3-12

AF3-13



Thank you for considering our comments. If you have any questions, please contact Bryant Chesney at (562) 980-4037 or [Bryant.Chesney@noaa.gov](mailto:Bryant.Chesney@noaa.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Yates", with a long horizontal flourish extending to the right.

Chris Yates  
Assistant Regional Administrator  
for Protected Resources

cc: Christine Medak, U.S. Fish and Wildlife Service  
Melissa Scianni, Environmental Protection Agency  
Administrative File: 150316WCR2017PR00259

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## Letter AF3: National Oceanic and Atmospheric Administration

- AF3-1 The Administration's authority pursuant to the Magnuson-Stevens Fishery Conservation and Management Act is acknowledged in Draft EIS/EIR Table 1-1, Summary of Required Permits and Approvals.
- AF3-2 CDFW considered the Administration's earlier recommendation that Alternatives 4 and 5 as described in the Feasibility Report be carried forward for more detailed review. Similar to the Project Management Team's 2012 recommendation (see Memo from PMT and ESA to SAC, dated January 24, 2012),<sup>40</sup> the Project and Alternative 2 as analyzed in the Draft EIS/EIR are refinements of Alternative 5 from the Feasibility Report. As a result, the Lead Agencies did not include detailed analysis in the Draft EIS/EIR of Alternatives 4 and 5 as presented in the Feasibility Report. See General Response 3, *Alternatives* (Section 2.2.3.3), in the discussion of Draft EIS/EIR Alternative 8 (which is comparable to Feasibility Report Alternative 4), and the discussion of Draft EIS/EIR Alternative 9 (which is comparable to Feasibility Report Alternative 5).
- AF3-3 See Response AF3-2 regarding why Draft EIS/EIR Alternative 9, which, as described in Draft EIS/EIR Section 2.3.5, "is comparable to Feasibility Report Alternative 5," was not carried forward for more detailed review.
- AF3-4 In response to this comment, the description of southern mud intertidal habitat has been modified as follows:

Southern mud intertidal habitat, or mudflat, is a special aquatic site per 40 CFR §230.42. Mudflats are subject to some degree of mixed semidiurnal tidal fluctuations. Mudflats also may have significant freshwater inputs during the wet season or with dry weather runoff from urban areas. ~~Mudflats provide foraging habitat for birds and mammals~~ and are typically composed of fine-grained substrates. In addition to providing foraging habitat for birds and mammals, mudflats provide foraging habitat for various fish, and may also provide foraging for green sea turtles. Types of vegetation within and along the edges of mudflats include both nonvascular algae (e.g., phytoplankton, diatoms, [*Ulva* spp.]) and vascular plants (e.g., ~~surfgrasses [*Phyllospadix* spp.]~~ common eelgrass [*Zostera marina*], and ditch grass [*Ruppia* spp.]). Terrestrial vascular plants (e.g., pacific pickleweed [*Salicornia pacifica*], fleshy jaumea [*Jaumea carnosa*], and shore grass [*Distichlis littoralis*]) also are found at higher elevations on the edges of mudflats.

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<sup>40</sup> Ballona Wetlands Project Management Team and ESA PWA, 2012. Ballona Wetlands Restoration Summary of restoration plan refinements and SAC questions for discussion in the January 23, 2012, SAC meeting. Dated January 24, 2019.

- AF3-5 See General Response 3, *Alternatives* (Final EIR Section 2.2.3.2), which addresses multiple questions about the range of alternatives analyzed in the Draft EIS/EIR. In addition, see Response AF3-2 and Response AF3-8, where it is explained that, under the proposed restoration alternatives, “sea-level rise is expected to gradually convert much of the restored area to lower elevation habitats through the process of transgression (e.g., from vegetated wetland to mudflat or from mudflat to subtidal habitats) between the year 2030 and 2100 (see Draft EIS/EIR Figure 2-36 through Figure 2-40).” CDFW agrees that eelgrass habitat provides important tidal functions and services for aquatic species, but due to the proposed shallow tidal habitats across a broad floodplain, eelgrass habitat is not a primary planned feature for the Project Site.
- AF3-6 As stated in Draft EIS/EIR Section 1.2.2.1, the purpose of the Project is “to return the daily ebb and flow of tidal waters where practically feasible to achieve predominantly estuarine conditions, enhance freshwater conditions, and enhance physical and biological functions within the Ballona Reserve. Restoring wetland functions and services would reestablish native wetland vegetation and provide important habitat for a variety of wildlife species. A restored, high-functioning wetland also would benefit the adjacent marine environment and enhance the quality of tidal waters.” Section 1.2.2.1 goes on to provide a detailed list of restoration-related components that would restore estuarine and upland habitats, improve tidal circulation, and provide improved flood risk management features. See also General Response 3, *Alternatives* (Final EIR Section 2.2.3.2), which provides specific references to the central project objective of tidal/estuarine restoration in the Draft EIS/EIR.
- AF3-7 CDFW preliminarily identified the Environmentally Superior Alternative for purposes of CEQA in Draft EIS/EIR Section 4.4 as Alternative 2. As stated in Section 4.4, “Alternatives 1, 2, and 3 would all improve the environment as compared to existing conditions, but Alternatives 1 and 2 would result in a greater quantity of aquatic and wetland habitats as compared to Alternative 3. More specifically, there would be little change in the quality of the existing marsh under Alternative 3 and therefore non-tidal salt marsh and non-tidal marsh would be prevalent.” Between Alternatives 1 and 2, “Alternative 2 would avoid the environmental impacts of Alternative 1, Phase 2 while still achieving significant amounts of restoration without impacting marginally functioning tidal wetland habitat.” See also Draft EIS/EIR Table ES-2 for a summary of habitat acreages by alternative.

However, as noted in Section 4.4, CDFW, as the CEQA Lead Agency, reserved the right to reach a different conclusion in finalizing the EIR based in part on its consideration of input received during the agency and public review process. Comments were requested and received on the Draft EIS/EIR from public agencies including responsible agencies, trustee agencies and other state, Federal, and local agencies with jurisdiction over resources that could be affected by the Project (see Final EIR Appendix B, *Commenting Parties*). CDFW also sought input from individuals with special expertise regarding the potential environmental impacts of the Project and from members of the general public. On the basis of this input, and



upon further consideration, CDFW has concluded that the Project (Alternative 1) is the Environmentally Superior Alternative. See Final EIR Section 3.2.6 for an explanation of the rationale for the change.

NMFS's preference for greater specificity regarding ecological functions and services, particularly the functions and services of tidally influenced habitats, and suggestion that additional factors be considered in the comparison of alternatives are acknowledged. CDFW will also take into account the commenter's recommendations and suggestions as part of its decision-making process.

- AF3-8 Regarding predicting restoration success, NMFS recommends that CDFW examine the risk of wetland restoration failure associated with salt marsh erosion, increased storm severity and frequency, and variable and uncertain recovery rates. As described in Draft EIS/EIR Section 2.2.2.6, the proposed monitoring program would "evaluate progress toward achieving restoration goals and inform the need for adaptive management for a minimum of 10 years post-restoration ... The goal of monitoring would be to document trends in habitat development and assess progress toward meeting restoration objectives. For cases in which the course of habitat development is relatively uncertain or for monitoring parameters which may be highly variable, assessment of performance relative to conditions in suitable reference habitats in the region would be utilized. It should be understood that some level of uncertainty will always be present, and performance criteria may require modification based on an improved understanding of habitat development, ecosystem function, or species requirements ..."

Many of NMFS' comments relate to the risk for undesirable long-term restoration outcomes, which it terms "wetland restoration failure," due to climate change. Rising sea levels are an important near-term consideration for the Project. The Description of the Project in Draft EIS/EIR Section 2.2 acknowledges that sea-level rise is expected to gradually convert much of the restored area to lower elevation habitats through the process of transgression (e.g., from vegetated wetland to mudflat or from mudflat to subtidal habitats) between the year 2030 and 2100 (see Draft EIS/EIR Figures 2-36 through 2-40). The anticipated conversion of restored areas to lower elevation habitats is neither unplanned nor considered a failed restoration effort.

The alternatives that have been developed and evaluated by CDFW along with the Corps, the USFWS (prior to 2017), and the Coastal Conservancy are intended to balance short- and long-term habitat benefits between the many terrestrial and aquatic species that inhabit the Ballona Reserve. Numerous iterations of the Ballona Creek design have been examined, including linear and meandering configurations. The alternatives presented in the Draft EIS/EIR include both a meandering Ballona Creek channel (the Project and Alternative 2) and a linear Ballona Creek channel (Alternative 3). Some of the benefits of the meander-shaped channel under the Project and Alternative 2 include a more natural, non-linear appearance for Ballona Creek and a greater area for fish and wildlife and associated habitat benefits. Armored





protection components in the creek will additionally provide habitat complexity and diversity to marine environments and provide shelter from high water flows.

As stated in Draft EIS/EIR Section 3.9, storm events would periodically increase erosion and related turbidity under all of the restoration alternatives, but would be an infrequent, temporary impact, and one which is typical of natural systems. The evaluation of erosion provided in the Draft EIS/EIR considers site performance under 10-year and 100-year events. The NMFS recommendation to more carefully evaluate the risk of wetland restoration failure with increased storm severity is noted; however, the assessment does not include analysis of storms with severity greater than a 100-year event. An assessment of risks with storm events with greater frequency (i.e., less than 100-year events) is evaluated in the Draft EIS/EIR. As modeled for the Draft EIS/EIR and presented in Section 3.9, stormwater inputs would not have a substantial impact on the beneficial uses of the system under either the 10-year or the 100-year events.

Of the restoration alternatives, only Alternative 3 would isolate graded restoration areas from Ballona Creek. The creation and connection of tidal areas to Ballona Creek using culverts would have negligible direct impacts to EFH. During operations, erosion during storm events may be similar to existing conditions; however, habitat benefits would be greatly reduced for EFH species compared to conditions under the Project and Alternative 2.

Regarding increasing tidal marsh in Area A, NMFS recommends that CDFW alter the restoration approach in Area A to adjust for sea-level rise by creating low elevation tidal salt marsh instead of higher elevation salt pan and nontidal marsh areas. The Project and alternatives that have been developed and evaluated were designed to balance habitat benefits among a variety of aquatic and terrestrial species that inhabit the Ballona Reserve. The recommendation to increase the amount of contiguous tidal salt marsh in Area A rather than the proposed salt pan and nontidal marsh areas would provide additional marine habitat benefits for Area A at the detriment of numerous upland species that depend upon nontidal marsh habitat. The Project includes salt pan and nontidal marshland habitat in Area A to support terrestrial wildlife species that would be displaced during the restoration activities and operations in areas south of Ballona Creek. CDFW understands that such “temporary” habitat would likely be displaced in coming decades by rising sea levels, as mentioned in the comment; however, the Project proposes to replace impacted habitat to the extent possible and provide suitable habitat for sensitive terrestrial wildlife that occur on-site. The NMFS recommendation to augment tidal conditions in Area A and forego the creation of high marsh transitional habitat does not meet the Project objectives (Draft EIS/EIR Section ES.3 and Section 1.1; see also Section 2.1.3, *Screening Criteria for Alternatives to the Proposed Action*) because it would not provide for a range of multiple wetland and upland habitat types and biodiversity.

CDFW has considered the restoration uncertainty related to the potential future effects of rising sea levels on the restoration effort. It is recognized that created high



marsh areas throughout the Ballona Reserve would be subject to greater and greater flooding over time due to sea-level rise. As with many West Coast tidal estuarine systems, gradual changes to the tidal marsh resulting from sea-level rise are expected to change natural habitats at the Ballona Reserve.

- AF3-9 The alternative recommended by NMFS that has the potential to provide high-quality green sea turtle foraging habitat is noted and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Response AF3-6 regarding the Project's restoration objectives.

See General Response 3, *Alternatives* (Final EIR Section 2.2.3.2), which addresses input received about the range of alternatives analyzed in the Draft EIS/EIR.

- AF3-10 NMFS' general concurrence with the Corps' determination that the Project may have a substantial temporary adverse impact from restoration/ construction, but may result in long-term benefits to EFH is noted.

- AF3-11 See Response AF3-8.

- AF3-12 See Response AF3-9.

- AF3-13 Specifics of the Corps' EFH consultation process are outside CDFW's purview. Nonetheless, CDFW anticipates that the Corps will address questions relating to the EFH consultation process and other federal law-specific comments in a Final EIS. With that understanding, CDFW provides the following preliminary response for informational purposes.

CDFW acknowledges NMFS' request to the Corps for EFH consultation. CDFW understands that federal agencies may incorporate an EFH Assessment into documents prepared for other purposes such as NEPA documents and public notices pursuant to 40 CFR Part 1500. The Draft EIS/EIR's EFH assessment includes all of the information required in 50 CFR §600.920(e)(3), which includes: (i) a description of the action, (ii) an analysis of the potential adverse effects of the action on EFH and the managed species, (iii) the Federal agency's conclusions regarding the effects of the action on EFH, and (iv) proposed mitigation, if applicable.

CDFW understands that an existing environmental review process can be used to fulfill the EFH consultation requirements, and that the comment deadline for that process should apply to the submittal of NMFS EFH Conservation Recommendations under Section 305(b)(4)(A) of the Magnuson-Stevens Act. CDFW anticipates that the Corps will separately coordinate with NMFS to satisfy the federal agency consultation requirement, which is separate from and does not signify a deficiency in the EIR.



RECEIVED

Comment Letter AF4

MAR 06 2018

U.S. Department of  
Homeland SecurityUnited States  
Coast GuardCommander  
Eleventh DistrictREGULATORY DIVISION  
LOS ANGELES OFFICEU.S. Coast Guard Island, Bldg 50-2  
Alameda, CA 945041-5100  
Staff Symbol: (dpw)  
Phone: (510) 437-3516  
Fax: (510) 437-583616591  
Ballona Creek (1.4)  
27 Feb 2018

## MEMORANDUM

From: C.T. HAUSNER  
Chief, Bridge SectionHAUSNER.CARL.  
T.1171474031Digitally signed by HAUSNER.CARL.T.1171474031  
DN: cn=US, o=U.S. Government, ou=DoD, ou=PKI,  
ou=USCG, cn=HAUSNER.CARL.T.1171474031  
Reason: I am the author of this document  
Date: 2018.02.28 12:50:02 -0800To: U. S. Army Corps of Engineers, Los Angeles District  
Attn: Bonnie RodgersSubj: PROPOSED PEDESTRIAN BRIDGE, MILE 1.4, BALLONA CREEK, BETWEEN  
MARINA DEL REY AND PLAYA DEL REY, CA

1. The General Bridge Act of 1946 requires the approval of the location and plans of bridges prior to the start of construction (33 U.S.C. 525). As the Federal regulatory agency responsible for permitting bridges under the provisions of the General Bridge Act of 1946, the U. S. Coast Guard (USCG) has completed our review of the U.S. Army Corps of Engineers' (USACE) draft Environmental Impact Statement, dated September 2017, for the Ballona Wetlands Restoration Project.
2. We understand a proposed pedestrian bridge is included in this restoration project and will be located in position 33.974202, -118.433748.
3. The Commandant of the Coast Guard has given advance approval to the location and plans of bridges to be constructed across reaches of waterways considered navigable, but not actually navigated by other than logs, log rafts, rowboats, canoes and small motorboats. In such cases the clearances provided for high water stages will be considered adequate to meet the reasonable needs of navigation. (33 C.F.R. 115.70).
4. Ballona Creek is considered navigable by Coast Guard standards, for bridge permitting, from its mouth at mile 0.0, to the upstream limit of tidal influence. However, at the proposed bridge site, Ballona Creek conforms to Advance Approval bridge permitting criteria and we understand the USACE has not indicated plans to make navigational improvements that would result in larger watercraft passing through the proposed bridge. This does not relieve the applicant from complying with all applicable federal, state and local laws and associated permit requirements.
5. The applicant is required to notify this office at least 30 days prior to beginning construction so we may provide appropriate notice to mariners. The applicant must complete and return the enclosed Completion Report Information form to my office at the conclusion of the bridge construction. "As built" drawings on 8 1/2 X 11-inch paper showing horizontal (pier face to pier face), vertical (above mean high water), navigational clearances measurements, and a photograph of the bridge are required when the bridge is complete. The drawings must indicate the elevation of the lowest hittable part of the bridge above mean high water.

AF4-1

AF4-2

AF4-3

AF4-4

AF4-5

## Comment Letter AF4

16591  
27 Feb 2018

6. If the character of navigation changes, such that the waterway no longer meets advance approval criteria, the Coast Guard will promptly withdraw the Advance Approval designation for this project and notify all interested parties.
7. The identification of Advance Approval waterways under 33 C.F.R. 115.70 is listed in the USCG NEPA Implementing Regulations as Categorically Excluded from further review, and the Coast Guard need not participate in this project as a Cooperating Agency for NEPA.
8. This memo replaces the 25 Jan 2016 memo the USCG sent to the USACE concerning this project.
9. You may contact me by telephone at (510) 437-3516 or email at [Carl.T.Hausner@uscg.mil](mailto:Carl.T.Hausner@uscg.mil) to discuss this project.

AF4-6

#

Enclosure

Copy: R.C. Brody, California Department of Fish and Wildlife  
U. S. Coast Guard Sector Los Angeles/Los Beach, Waterways Management



## **Letter AF4: U.S. Coast Guard**

- AF4-1 The Draft EIS/EIR acknowledges the U.S. Coast Guard's jurisdiction pursuant to the General Bridge Act (33 U.S.C 525) in Draft EIS/EIR Table 1-1, Summary of Required Permits and Approvals.
- AF4-2 The location of the proposed pedestrian bridge is shown, for example, in Draft EIS/EIR Figure 2-2, Alternative 1, Phase 2: Preliminary Grading Plan.
- AF4-3 The Commandant's approval pursuant to 33 C.F.R. §115.70 is acknowledged.
- AF4-4 Compliance with all applicable laws, regulations, and permit requirements would be required for restoration to proceed under Alternative 1, 2, or 3.
- AF4-5 See Draft EIS/EIR Table 1-1, Summary of Required Permits and Approvals, which acknowledges these obligations. The additional detail provided in the comment as to paper size and drawing contents is acknowledged.
- AF4-6 The additional clarification and direction is acknowledged and will be considered as CDFW's evaluation of the project proceeds.

## **2.3.2 Responses to State Agency Comments**

The following pages contain the comment letters received from State agencies and CDFW's associated responses.

DEPARTMENT OF TRANSPORTATION

DISTRICT 7

100 S. MAIN STREET, MS 16

LOS ANGELES, CA 90012

PHONE (213) 897-8391

FAX (213) 897-1337

TTY 711

www.dot.ca.gov



Serious Drought.  
Making Conservation  
a California Way of Life.

November 21, 2017

Mr. Richard C. Brody  
California Department of Fish & Wildlife SCR #5  
3883 Ruffin Rd.  
San Diego, CA 92123

RE: Ballona Wetlands Restoration Project  
Vic. LA-01/PM 30.694  
SCH # 2012071090  
GTS # LA-2017-01159AL-DEIR

Dear Mr. Brody:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the above referenced project. The project offers three alternatives to restore wetlands, other aquatic resources, and adjacent habitats within the reserve (Alternatives 1, 2, and 3) and a no Federal action/no project alternative (Alternative 4) that reflects conditions that would result (including from sea level rise) if no Federal, state, or local discretionary approvals were authorized.

After reviewing the Draft Environmental Impact Report for this project, Caltrans has the following comments:

The project will generate a 378 ADT, 12/52 AM/PM peak hour trips. The project will generate 2,009 daily and 185/34 AM/PM peak hour construction trips. Many of those trips will utilize the State facilities. The construction time schedule of working hours should be considered off peak hours for the large size truck trips to minimize traffic congestion and to provide maximum safety to the pedestrians and vehicular traffic on the streets and freeways. Transportation of heavy construction equipment and/or materials, which requires the use of oversized-transport vehicles on State highways, will require a transportation permit from Caltrans.

AS1-1

AS1-2

Please be reminded that any work performed within the State Right-of-way will require an Encroachment Permit from Caltrans. Any modifications to State facilities must meet all mandatory design standard and specifications.

AS1-3

Storm water run-off is a sensitive issue for Los Angeles. Please be mindful that projects should be designed to discharge clean run-off water. Additionally, discharge of storm water run-off is not permitted onto State highway facilities without a storm water management plan.

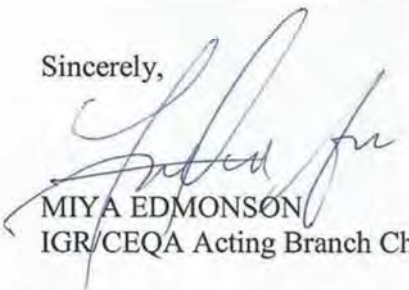
AS1-4



Mr. Richard C. Brody  
November 21, 2017  
Page 2 of 2

If you have any questions, please feel free to contact project coordinator Mr. Alan Lin at (213) 897-8391 and refer to GTS # LA-2017-01159-AL.

Sincerely,

A handwritten signature in black ink, appearing to read 'Miya Edmonson', is written over a light blue rectangular background.

MIYA EDMONSON  
IGR/CEQA Acting Branch Chief

cc: Scott Morgan, State Clearinghouse



## **Letter AS1: California Department of Transportation**

- AS1-1 To minimize traffic congestion and potential impacts to pedestrian and vehicular traffic safety on study area roadways, Draft EIS/EIR Section 3.12.6.1 explains that a construction traffic management plan would be prepared pursuant to Mitigation Measure TRANS-1a that would include scheduling truck trips outside of peak morning and evening commute hours to minimize adverse impacts on traffic flow.
- AS1-2 Draft EIS/EIR Table 1-1, Summary of Required Permits and Approvals, has been revised to reflect the potential requirement for a transportation permit from Caltrans.
- AS1-3 Draft EIS/EIR Table 1-1 also has been revised to reflect that any work performed within the State right-of-way would require an encroachment permit.
- AS1-4 As described under the heading “Los Angeles County Municipal Separate Storm Sewer System Permit” in Draft EIS/EIR Section 3.9.3.3, the proposed improvements would be required to adhere to the current Los Angeles County MS4 Permit, which regulates stormwater discharges during construction and operation of facilities. The proposed restoration activities do not involve the introduction of many new impervious surfaces, but would adhere to the water quality based effluent limitations (WQBELs), or water quality standards for discharge leaving the site.



State of California • Natural Resources Agency  
 Department of Conservation  
**Division of Oil, Gas, and Geothermal Resources**  
**Southern District**  
 5816 Corporate Avenue • Suite 100  
 Cypress, CA 90630  
 (714) 816-6847 • FAX (714) 816-6853

Edmund G. Brown Jr., Governor

February 2, 2018

VIA EMAIL

Mr. Richard Brody, CDFW  
 c/o ESA (jas)  
 550 Kearny Street, Suite 800  
 San Francisco, CA 94108  
[BWERcomments@wildlife.ca.gov](mailto:BWERcomments@wildlife.ca.gov)

Dear Mr. Brody:

**EIR - DRAFT ENVIRONMENTAL IMPACT REPORT  
 BALLONA WETLANDS RESTORATION PROJECT  
 SCH#: 2012071090**

The Department of Conservation's Division of Oil, Gas, and Geothermal Resources (Division) has reviewed the above referenced project for impacts with Division jurisdictional authority. The Division supervises the drilling, maintenance, and plugging and abandonment of oil, gas, and geothermal wells in California. The Division offers the following comments for your consideration.

The project area is in Los Angeles County within the Playa Del Rey oil field boundary. Division records indicate that there are at least 27 oil and gas storage wells and several production and gas lines located within the project boundary as identified in the application.

The scope and content of information that is germane to Division's responsibility are contained in Section 3000 et seq. of the Public Resources Code, and administrative regulations under Title 14, Division 2, Chapters 2, 3 and 4 of the California Code of Regulations.

The plugging and abandonment of wells and decommissioning and removal of oil field facilities, including wells, pipelines, and tanks, are regulated by the Division. In addition, the drilling of new or replacement wells, and installation, maintenance, and operation of tanks and facilities attendant to oil and gas production, including pipelines falls within the jurisdiction of the Division.

If any wells, including any plugged, abandoned or unrecorded wells, are damaged or uncovered during excavation or grading, remedial plugging operations may be required. If such damage or discovery occurs, the Division's district office must be contacted to obtain information on the requirements and approval to perform remedial operations.

The possibility for future problems from oil and gas wells that have been plugged and abandoned, or reabandoned, to the Division's current specifications are remote. However, the Division recommends that a diligent effort be made to avoid building over any plugged and abandoned well.

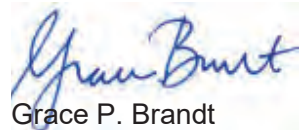
AS2-1

AS2-2

Mr. Richard Brody, CDFW  
SCH No.: 2012071090  
February 2, 2018  
Page 2

Questions regarding the Division's Construction Site Well Review Program can be addressed to the local Division's office in Cypress by emailing [DOGDIST1@conservation.ca.gov](mailto:DOGDIST1@conservation.ca.gov) or by calling (714) 816-6847.

Sincerely,



Grace P. Brandt  
Associate Oil and Gas Engineer

cc: The State Clearinghouse in the Office of Planning and Research  
Tim Shular, DOC OGER  
Crina Chan, DOC OGER  
Jan Perez, DOGGR CEQA Unit  
Chris McCullough, Facilities and Environmental Supervisor  
Environmental CEQA File





## **Letter AS2: Department of Conservation's Division of Oil, Gas, and Geothermal Resources**

- AS2-1      The oversight and permitting authority Department of Conservation's Division of Oil, Gas, and Geothermal Resources (DOGGR) is acknowledged in Draft EIS/EIR Table 1-1, Summary of Required Permits and Approvals, which has been updated to identify the specific statutory and regulatory sources of this authority and to clarify the scope of the authority.
- AS2-2      CDFW acknowledges that any wells damaged or uncovered during excavation or grading may require remedial work and authorization from DOGGR. CDFW also acknowledges DOGGR's recommendation that building over any plugged and abandoned well be avoided. This input will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.

**CALIFORNIA STATE LANDS COMMISSION**  
100 Howe Avenue, Suite 100-South  
Sacramento, CA 95825-8202



*Established in 1938*

February 5, 2018

JENNIFER LUCCHESI, *Executive Officer*  
(916) 574-1800 Fax (916) 574-1810  
California Relay Service TDD Phone 1-800-735-2929  
from Voice Phone 1-800-735-2922

**Contact Phone: (916) 574-1890**  
**Contact Fax: (916) 574-1885**

File Ref: SCH #2012071090

Richard Brody  
California Department of Fish and Wildlife  
c/o ESA (jas)  
550 Kearny Street, Suite 800  
San Francisco, CA 94108  
*VIA REGULAR & ELECTRONIC MAIL ([BWERCcomments@wildlife.ca.gov](mailto:BWERCcomments@wildlife.ca.gov))*

**Subject: Ballona Wetlands Restoration Project Environmental Impact Statement/  
Environmental Impact Report (EIS/EIR)**

Dear Mr. Brody:

Thank you for the opportunity to comment on the Ballona Wetlands Restoration Project EIS/EIR. As the landowner of the Ballona Wetlands Freshwater Marsh and an approximately 24-acre portion of the Project's Southeast Area B, the State Lands Commission (Commission) is keenly interested in the Project.

As a signatory to the 2008 Memorandum of Understanding, along with California Department of Fish and Wildlife (CDFW) and the State Coastal Conservancy, for restoration planning for the Ballona Wetlands, we support the goal of moving the restoration forward.

**Background on State Lands Commission Jurisdiction**

The Commission has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways including 3 miles off the coastal shoreline. The Commission also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions (Pub. Resources Code, §§ 6009, subd. (c), 6301, 6306). All tidelands and submerged lands, granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the common law Public Trust Doctrine. Activities performed on State-owned sovereign land may require a lease or other authorization from the Commission.

As general background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable lakes and waterways upon its

AS3-1

AS3-2

Richard Brody  
February 5, 2018  
Page 2 of 3

admission to the United States in 1850. The State holds these lands for the benefit of all people of the State for statewide Public Trust purposes, which include but are not limited to waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation, and open space.

Additionally, under the California Environmental Quality Act (CEQA), the Commission is a trustee agency for projects that could directly or indirectly affect sovereign land and their accompanying Public Trust resources or uses (State CEQA Guidelines, § 15063, subd. (g)). For projects involving work on sovereign land, the Commission acts as a CEQA responsible agency. In the event work in the Commission-owned portion of Southeast Area B requires a lease amendment, the Commission would act as a responsible agency.

AS3-2  
cont.

### **Environmental Review**

Commission staff requests that the CDFW consider the following comments on the Project's EIS/EIR.

1. Nature of Commission Jurisdiction in Ballona Wetlands – Please correct the information provided in Table 1-1, page 1-25, of the EIS/EIR, which states:

The CSLC has oversight responsibility for tidal and submerged lands legislatively granted in trust to local jurisdictions, including the freshwater marsh located in Area B of the Ballona Reserve (which is not part of the Project) and a 24-acre property that it leases to CDFW to manage as part of the Ballona Reserve.

While it is correct that the Commission has oversight authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions, neither the Freshwater Marsh, nor the 24-acre parcel in Southeast Area B leased to CDFW, are legislatively granted. Both properties were acquired by the Commission in 2004 and are sovereign land owned in fee in the legal character of tide and submerged lands. The Commission's ownership of the Freshwater Marsh is subject to pre-existing easements, including a conservation easement.

AS3-3

2. Freshwater Marsh terminology – The EIS/EIR refers to the Freshwater Marsh as the "Playa Vista Development Freshwater Marsh" at pages 2-56 and 2-57, but refers to the area as simply the "Freshwater Marsh" or the "freshwater marsh" elsewhere in the document. Commission staff requests that the area be referred to as simply the "Freshwater Marsh" or the "Ballona Freshwater Marsh" throughout the document. While the Commission does not wish to diminish Playa Vista's role in restoring the marsh, staff suggests this change both for the sake of consistency and to avoid confusion since the Freshwater Marsh property is State-owned.

AS3-4

Please send copies of future Project-related documents, including electronic copies of the Final EIS/EIR, Mitigation Monitoring and Reporting Program, Notice of Determination, CEQA Findings, and, if applicable, Statement of Overriding

Richard Brody  
February 5, 2018  
Page 3 of 3

Considerations, when they become available. Please refer questions concerning environmental review to Eric Gillies, Environmental Program Manager, at (916) 574-1897 or via e-mail at [Eric.Gillies@slc.ca.gov](mailto:Eric.Gillies@slc.ca.gov) and to Staff Counsel Lucinda Calvo at (916) 574-1866 or via e-mail at [Lucinda.Calvo@slc.ca.gov](mailto:Lucinda.Calvo@slc.ca.gov). For questions concerning any Commission lease amendments, please contact Grace Kato, Assistant Chief, Land Management Division, at (916)-574-1227 or via e-mail at [Grace.Kato@slc.ca.gov](mailto:Grace.Kato@slc.ca.gov).

Sincerely,

A handwritten signature in black ink, appearing to read 'C. R. Oggins', with a stylized flourish at the end.

Cy R. Oggins, Chief  
Division of Environmental Planning  
and Management

cc: Office of Planning and Research  
E. Gillies, Commission  
L. Calvo, Commission  
G. Kato, Commission





## Letter AS3: California State Lands Commission

- AS3-1 Support for restoration is acknowledged and will be taken into consideration as part of CDFW's decision-making process. The State Lands Commission's ownership of the Freshwater Marsh and a portion of Southeast Area B is acknowledged in Draft EIS/EIR Section ES.1, *Background and Project Overview*; Section ES.2.1, *Project Proponents*; Section 1.2.1, *Location of the Project Site*; and Section 1.5.1, *NEPA Scope of Analysis*.
- AS3-2 The Commission's status as a trustee agency for CEQA purposes is acknowledged in Draft EIS/EIR Section ES.2.4, *Responsible and Trustee Agencies*. The summary of the Commission's jurisdiction and authority provided in Draft EIS/EIR Table 1-1, Summary of Required Permits and Approvals, has been clarified consistent with the details provided in this comment.
- AS3-3 See Response AS3-2 regarding clarification of the Commission's jurisdiction and authority in Draft EIS/EIR Table 1-1, Summary of Required Permits and Approvals. The Commission's ownership and operation of the Freshwater Marsh pursuant to existing easements, including a conservation easement, is acknowledged.
- AS3-4 References to the "Playa Vista Development Freshwater Marsh" have been corrected to avoid confusion.



DEPARTMENT OF PARKS AND RECREATION

Angeles District

1925 Las Virgenes Road

Calabasas, California, 91302

Lisa Ann L. Mangat, Director

February 5, 2018

California Department of Fish and Wildlife

R.C. Brody, Land Manager (BWER)

c/o ESA (jas)

550 Kearney Street, Suite 800

San Francisco, CA 94108

**Re: Ballona Wetlands Restoration Project EIS/EIR State Clearinghouse**

**No.2012071090**

Dear Mr. Brody,

The California Department of Parks and Recreation, Angeles District (State Parks), strongly supports the goals of the Ballona Wetlands Restoration Project to restore ecological functions of wetlands, and to enhance public access and recreational use. Wetlands support biodiversity, provide nurseries for fish, and important ecological services, such as flood protection, carbon sequestration, and improved water quality. Wetlands provide our roads and infrastructure with natural protection from sea level rise.

The Ballona Wetlands Restoration is particularly important because more than 90% of California's wetlands, and more than 96% of Los Angeles County coastal wetlands, have been lost. Many of the remaining tidal areas have been impacted and changed to the point that they provide only limited ecosystem services and habitat. The Ballona wetlands were filled in with millions of cubic yards of dredged material, and the Reserve is suffering from modified hydrology, fragmentation, poor water quality, and the spread of harmful invasive plants. The restoration would remove the fill that inhibits natural function and create functional wetlands where wildlife and plants can thrive.

State Parks supports Alternative 1 (Full Tidal Restoration) because it provides the highest level of restoration compared to the other three alternatives. In contrast, Alternative 3 (Levee Culverts and Oxbow) provides few restoration benefits and is less resilient to sea level rise. Alternative 4 (No Project) provides no ecosystem or public

access improvements. Both Alternative 1 and Alternative 2 (Restored Partial Sinuous Creek) would create or enhance wetlands, and improve wetland function. Both alternatives would provide new trails, bike paths and parking for visitor use. However, Alternative 1 provides the greatest ecological benefits.

AS4-1



Alternative 1 (Full Tidal Restoration) would create a fully-connected, unconfined Ballona Creek channel and wetland. The channel sinuosity of 1.2 would be similar to other natural southern California creek and tidal wetlands systems. Alternative 1 would return the daily ebb and flow of tidal waters to predominantly estuarine conditions, enhance freshwater conditions, physical and biological functions; reestablish native wetland vegetation, and improve habitat for wildlife. This alternative is the most resilient to sea level rise.

The proposed restoration project aligns closely with our mission to provide for the health, inspiration, and education of the people of California by helping to preserve the state's extraordinary biological diversity, protect its most valued natural and cultural resources, and to create opportunities for high-quality outdoor recreation. California State Parks has a proud history of restoration in southern California including the Malibu Lagoon Restoration and Enhancement Project, the Topanga Creek Berm Removal Project, and other habitat restoration projects throughout the Angeles District.

Alternative 1 would provide high quality habitat and recreational opportunities at the Ballona Wetlands Ecological Reserve.

AS4-1  
cont.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Craig Sap', with a stylized flourish at the end.

Craig Sap  
District Superintendent



## Letter AS4: California State Parks

- AS4-1 State Parks' support for the Project and its greater level of long-term ecological benefits relative to the other alternatives is acknowledged and will be taken into consideration as part of CDFW's decision-making process. Existing conditions are described on a resource-by-resource basis throughout Draft EIS/EIR Chapter 3, *Environmental Consequences*. Under Alternative 4, No Federal Action/No Project, described in Section 2.2.5 and analyzed throughout Chapter 3, the conditions summarized in this comment (including habitat fragmentation, poor water quality, and the spread of harmful invasive plants) would continue and/or worsen over time. Regarding Project design in light of anticipated sea-level rise, see General Response 6 (Final EIR Section 2.2.6.2).

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
200 Oceangate, Suite 1000  
Long Beach, CA 90802-4302  
(562) 590-5071



February 12, 2018

Attn: R.C. Brody  
California Department of Fish & Wildlife SCR #5  
3883 Ruffin Road  
San Diego, CA 92123

**Re: Draft EIR/EIS for Ballona Wetland Restoration Project  
State Clearinghouse No. 2012071090**

Dear Mr. Brody:

Commission staff appreciates the opportunity to review and provide comment on the Draft Environmental Impact Report for the Ballona Wetlands Restoration Project. We also would like to acknowledge the significant collaboration that has taken place to date between interested stakeholders and federal and state agency representatives in the development of this significant restoration project. Given the complexity of this wetland ecosystem and the sensitive coastal resources present within, additional and more thorough project review will be required as a part of necessary future coastal development permit (CDPs) for the proposed project.

AS5-1

The following comments address, in a preliminary manner, the issue of the proposed project's consistency with the Chapter 3 policies of the California Coastal Act of 1976. This letter is an overview of the main issues Commission staff has identified at this time based on the information we've been presented, and is not an exhaustive analysis. The comments contained herein are preliminary in nature, and those of Coastal Commission staff only and should not be construed as representing the opinion of the Coastal Commission itself.

The stated purpose of the restoration is to "Restore ecological functions and services within the Ballona Reserve, in part by increasing tidal influence to achieve predominantly estuarine wetland conditions." (p. ES-7). Impacts to these resources are restricted by Coastal Act policies. Except for certain specific instances, fill of a wetland or other coastal waters is prohibited (Section 30233), and the marine resources (Section 30230), water quality (Section 30231), and environmentally sensitive habitat areas (Section 30240) associated with coastal resources are also protected. In addition, public views of scenic coastal resources (Section 30251), public access and recreation (Section 30210), and the public's ability to access the coast and coastal resources for water-oriented recreational activities (Section 30220) are also protected by the Coastal Act.

AS5-2

Page 3.1-5 (p. 375 of pdf) of the DEIS/EIR states that Area B is within the portion of the Westchester-Playa Del Rey Community Plan and the Playa Vista Specific Plan, which along with applicable land use policies in the Community Plan constitutes the Local Coastal Program for Playa Vista (City of Los Angeles 2003a). It also states that Area C is within the Palms-Mar Vista-Del Rey Community Plan and the Playa Vista Area C Specific Plan, which along with

applicable land use policies in the Palms-Mar Vista-Del Rey Community Plan constitutes the Local Coastal Program for Playa Vista Area C (City of Los Angeles 2003b).

While there is a certified land use plan for the area, the City of Los Angeles does not have a certified Local Coastal Program for the Playa Vista area. The City of Los Angeles submitted its Local Coastal Program in March 1981. The Commission denied the submitted LCP on December 18, 1981. In November 1986, the Commission certified, with suggested modifications, the land use plan portion of the Playa Vista segment of the City of Los Angeles' Local Coastal Program after the City annexed the area. The City has not submitted a revised LCP. While the project may be consistent with the above mentioned coastal plans, the project is within an area of original jurisdiction and therefore the standard of review for the project is the Coastal Act. The above mentioned plans may be used as guidance only.

AS5-2  
cont.

Page 3.4-70 states the project may be within the Coastal Zone. To clarify, the entire project site is definitively within the Coastal Zone and within the original jurisdiction of the Coastal Commission. Therefore the project cannot proceed without a Coastal Development Permit from the California Coastal Commission and must be found consistent with policies of Chapter 3 of the Coastal Act.

The following are Commission staff's comments in the order presented in the draft EIR/EIS.

#### Executive Summary

- In the overview of the various alternatives, and in later summaries, the focus is on regulatory categories of wetland and non-wetland waters. In the context of restoration, this is not very informative. Throughout the document, the primary focus should be on habitats. For the great majority of people who are interested in this restoration project, referring to wetland habitats as "waters" is more confusing than helpful. Regulatory distinctions should be removed from alternative descriptions, and summarized in specific tables if this is needed by the various regulatory agencies.
- Add links to figures of proposed habitats for proposed project and alternatives

AS5-3

AS5-4

#### Chapter 1. Introduction

- Figure 1-1 (Existing topography, tidal inundation, and Section 10 Waters, p.1-9) is not useful for its stated purpose. The key shows a blue hachured area as indicating "Tidal Inundation," but there is no hachured area on the map. There are contours in black, white, and blue with no explanation of the differences and no elevations for the contours. Also, similar to the comment above, the classification of areas into "Section 10 waters" and "elevation above 4.75 ft NAVD" is not a useful distinction to the public or agencies (like the CCC) that do not use these classifications.
- Page. 1-6 of the Introduction states that "the Freshwater Marsh is a treatment wetland and compensatory mitigation project, constructed as part of the Playa Vista development and would not be affected as part of the Project." Constructing new tidal channels in South and Southeast Area B may result in saltwater intrusion into the existing Ballona Freshwater Marsh and Riparian Corridor. Please address the potential habitat impacts that may result from saltwater intrusion from restoring tidal function in this area.
- Has CDFW explored beneficial reuse of the 10,000-110,000 cy of excavated soil that will not be reused onsite to other projects in the vicinity?

AS5-5

AS5-6

AS5-7

Chapter 2. Description of Alternatives.

- |  |               |
|--|---------------|
| <ul style="list-style-type: none"> <li>• Project Design Feature (Table 2-2) includes a “Habitat Restoration and Monitoring Plan” to be developed prior to restoration activities and approved by CDFW. All such plans will probably also require CCC approval.</li> </ul>  | <p>AS5-8</p>  |
| <ul style="list-style-type: none"> <li>• There should be a brief description of each of the intended post-restoration habitats and a table showing the elevation boundaries of the restored tidal habitats, similar to Table 2 in Appendix B7, which also includes percent of time inundated and frequency of inundation. Including a conversion factor between NAVD88 and NGVD29 would facilitate comparisons to other southern California estuaries where the older datum is used.</li> </ul>  | <p>AS5-9</p>  |
| <ul style="list-style-type: none"> <li>• For each of the alternatives, there should be inundation maps with the inundated area in solid blue showing inundation at (1) MHHW (with a blue line for HAT), and (2) MLLW (with a blue line for MTL).</li> </ul>  | <p>AS5-10</p> |
| <ul style="list-style-type: none"> <li>• There should also be a detailed map showing where revegetation will occur.</li> </ul>   | <p>AS5-11</p> |
| <ul style="list-style-type: none"> <li>• Chapter 2 (Description of Alternatives) figures and tables for restoration and impacts to wetlands are based only on 3-parameter Corps wetlands (e.g., Table 2-1a, p. 2-7); no data are provided based on CCC wetlands. There should be a Table showing, for each area and subarea and for each alternative, the effects of the alternative on CCC wetlands (e.g., no change, dredging and conversion to tidal habitat, dredging and conversion to wetter freshwater wetland habitat, fill to create uplands, fill to create flood-control berms, fill to create habitat berms (e.g., for salt pan).</li> </ul>   | <p>AS5-12</p> |
| <ul style="list-style-type: none"> <li>• Chapter 2 should include one map of all proposed infrastructure and utility modifications. Figures 2-30, 31, and 32 do not provide enough context to understand how these modifications fit in with the proposed habitats and Phasing.</li> </ul>   | <p>AS5-13</p> |
| <ul style="list-style-type: none"> <li>• Figure 2-2a (p. 2-35) depicts Section 404 wetlands and non-wetland waters of the U.S. This figure should also show CCC wetlands that do not meet the federal criteria.</li> </ul>   |               |
| <ul style="list-style-type: none"> <li>• Figures 2-2b, 2-2c, 2-2d, 2-2e, 2-2f, and 2-2g (starting on p. 2-36). Dividing impacts separately into 404 and Section 10 wetlands and waters of the US on maps is not helpful in understanding the effects of the restoration. In any event, they should additionally be shown combined in maps and include, with a separate symbol, CCC wetlands that do not meet the federal criteria.</li> </ul>  | <p>AS5-14</p> |
| <ul style="list-style-type: none"> <li>• Alt 2 requires 310,000 cy less of soil excavation and movement than Alt 1, but still requires 10,000 cy of off-site export (Table 2-1c, p. 2-15) – why?</li> </ul>  | <p>AS5-15</p> |
| <ul style="list-style-type: none"> <li>• “The public access and visitor facilities described in this document have been identified for the purpose of assessing possible environmental consequences, and would be implemented, in full or in part, only if funding became available.” (page 2-19). In other words, they are not actually part of the plan. However, in later sections of the document they are not presented provisionally. For example, “The project would develop and improve public access, recreation, and interpretative opportunities under Phase 1 as shown in ....” (page 2-90). Considerable detail is presented. This apparent conflict needs to be resolved.</li> </ul> | <p>AS5-16</p> |
| <ul style="list-style-type: none"> <li>• There should be a balance sheet showing sources and amounts of cut, fill, and export.</li> </ul>  | <p>AS5-17</p> |
| <ul style="list-style-type: none"> <li>• Existing habitats in East Area B remain in Alt 1 (Figure 2-1, p. 2-31) and Alt 3 (Figure 2-51, p. 2-184), but not in Alt 2 (Figure 2-43, p. 2-159). The eastern dogleg of East Area B</li> </ul>  | <p>AS5-18</p> |



is ruderal marsh and non-tidal salt marsh. Alt 2 proposes to convert these wetlands to uplands. It is unlikely that the Coastal Commission would approve wetland fill simply to dispose of excess soil from grading operations.

- It is stated that soil removed from Area A would be used to create new levees and to “create restored uplands” in Area C. In the notes to the tables, the phrase “Placement for upland restoration is used.” Fill is not required for upland restoration in this location. Area C is simply being used for soil disposal and will then be planted with native vegetation. The language in the document should reflect that fact and not disguise soil disposal as “restoration.” Where appropriate, on-site disposal of excavated soil is sensible and common for restoration projects.
- A 3-dimensional rendering of north and south Area C before and after fill would be very helpful.
- Phase 2 of Alt 1 provides “Full tidal restoration of West Area B and new West Area B perimeter flood protection levee” (p. 2-43). If Phase 2 activities are restricted to Area B, why do the areas of some of the habitats in Area A (e.g., tidal salt marsh) vary between the end of Phase I and the end of Phase 2 (Table 2-3, p. 2-45)?
- Tables 2-3, 2-22, and 2-26 should show the impacts by area. Similar tables should be presented that are based on CCC wetlands for “Existing Conditions” and “Impacts.”
- Figure 2-1 shows West Area B after Alt 1 Phase 2 restoration to be mostly mid saltmarsh, some low saltmarsh, and a small amount of mud flat. The text (p. 2-69) says, “After completion of the Phase 2 full tidal restoration, much of West Area B is expected to convert to mudflat habitat over several decades.... West Area B is at low marsh elevations, so existing pickleweed may not persist;...” These discrepancies need to be reconciled and the actual expected habitats should be shown on the map. Table 3.4-14 (p. 3.4-123) shows a decline in mudflat following Phase 2 due to levee construction. In fact mudflat area will increase. Similarly, Table 3.4-15 (p. 3.4-125) should include the loss of salt marsh due to increased inundation following Phase 2. This planned conversion of saltmarsh to low marsh or mudflat should be explicitly considered as part of the impact assessment and be reflected in all the maps and tables. Tidal habitats are largely a function of elevation, with vegetated marsh generally a bit above mean sea level. Elevations can be altered during the restoration process to produce the desired habitat. In West Area B, if the desired habitat is saltmarsh, then the existing saltmarsh plants would have to be salvaged, fill placed, and the plants replanted when full tidal conditions were created.
- As part of Phase 2 of Alt 1, it is stated that, “In Phase 2, new, larger culverts would be installed under Culver Boulevard, extending to reach West Area B under the West Area B levee, to allow the option of greater tidal flows between West Area B and South Area B. New gates...*could* be added to the culverts to maintain management options for South and Southeast Area B.” (p. 2-76). On page 2-77, it is stated that, “The new culverts *would* include gates to limit high water.” These conflicting statements need to be reconciled. The decision should be made now and made part of the plan. If gates aren’t installed, managed tidal flows will not be an option.
- After grading, nonnative plants will be removed as part of the restoration. However, only invasive nonnative species are planned to be removed. This is an issue mainly for seasonal marsh and upland habitats. A broader nonnative removal and control plan should be implemented.

AS5-18  
cont.

AS5-19

AS5-20

AS5-21

AS5-22

AS5-23

AS5-24

AS5-25



- Throughout the document the generic term “grassland” should not be used. In every case, native grassland or annual grassland should be specified. In the current document, the restoration intent is not clear. On page 2-17, it is stated that annual grassland will be restored; on page 2-132 it is stated that grasslands will be planted with native species; on page 2-144, the performance criterion for years 1-3 is for native canopy cover, but for later years the criterion is just for canopy cover. Incidentally, these criteria are for both upland scrub and grassland, which is not appropriate.

AS5-26

- Page 2-139, Tables 2-12 through 2-20, Performance Criteria. The text suggests that performance criteria based on comparisons to reference sites are beneficial because they can account for stochastic events and provide a touchstone for the uncertain habitat development following restoration. We strongly agree and recommend that reference sites be used.

The “initial performance criteria” in the tables are of little value because most of the biological criteria are based on comparisons to pre-restoration conditions and simply require that post-restoration conditions are not worse than the pre-restoration state (presumably in Area B for most comparisons, but the comparison area should be specified). Vegetative cover is an exception, for which there are absolute criteria. For fish, birds, and macroinvertebrates, the success criteria are that, after ten years, abundance and diversity will at least meet pre-restoration levels<sup>1</sup>.

AS5-27

For macroinvertebrates, diversity is based on “order richness.” If this means the number of invertebrate orders present, it is not a useful metric. In a comparison, an order would be present regardless of whether it was represented by one or a hundred species.

There should be criteria for non-native plants – not only for invasive non-natives rated as “High” or “Moderate” by Cal-IPC. For seasonal wetlands, the goal is to have greater than 50 % vegetative cover by wetland-adapted species (“FAC” or wetter); all the species could be non-natives and the criterion would be met.

There are no criteria for the area occupied by the various habitats. There should be such criteria to insure that the restoration produces the desired mix of habitats. Performance criteria similar to those used for the San Dieguito restoration should be employed<sup>2</sup>.

- Tables 2-3, 2-22, and 2-16 (Post-restoration habitats and acreages) all have errors. The row totals for “Upland” and for “Developed” are incorrect in each case, and the footnotes for Table 2-16 are wrong.

AS5-28

- For any of the restoration alternatives, soil should not be stockpiled or placed permanently in wetlands. For Alt 1, soil would be stockpiled in the western portion of East Area B, which is upland (Text p. 2-58 & Figures 2-9 and 2-1) and the wetlands in eastern portion would be preserved. For Alt 2, soil would be added throughout East Area B (Figure 2-48) and nearly all the existing wetlands would be converted to uplands (Figure 2-43). Table 2-14 refers to this fill as “Placement for upland restoration,” which is deceptive. See previous comments on soil disposal and wetland fill.

AS5-29

- For three of the four project alternatives, a three-story parking structure is proposed to be constructed along Fiji Way for “use by the public, Los Angeles County Department of Beaches and Harbors (LACDBH), and CDFW staff.” According to the DEIR, the new

AS5-30

<sup>1</sup> For Area B, if that is the goal, there is no point in doing the restoration.

<sup>2</sup>[http://marinemitigation.msi.ucsb.edu/documents/wetland/ucsb\\_mm\\_reports/wetland\\_mitigation\\_monitoring\\_plan\\_%20updated\\_august2017.pdf](http://marinemitigation.msi.ucsb.edu/documents/wetland/ucsb_mm_reports/wetland_mitigation_monitoring_plan_%20updated_august2017.pdf)

structure would “reduce the existing parking area footprint in that location by up to approximately 0.8 acre and would provide a total of 302 parking spaces, an increase of 39 spaces from the existing parking lot” with 20 spaces dedicated to LACDBH vehicles, and seven to nine spaces would be provided for CDFW staff, with remaining spaces publically available paid parking spaces. Please submit more information (such as a parking study) to demonstrate the need for an increase in 39 parking spaces.

AS5-30  
cont.

- Figures 2-30, 31, 32
  - Are the wells proposed to remain in place or be replaced located outside the restoration footprint? Does the EIR analyze impacts from routine maintenance on these wells to surrounding or adjacent habitat?
  - It is difficult to understand from these maps where exactly the wells are located in relation to the proposed restoration. Please provide additional context.

AS5-31

### Chapter 3. Environmental Consequences

#### 3.4. Biological Resources

- The San Bernardino ring-necked snake is described as having been observed in “central Area B” (p. 3.4-39), however an area with this designation is neither described nor mapped.
- There should be an explanation of the basis for the potential habitat mapped for each species. For example, the wandering skipper butterfly occurs where its larval foodplant, saltgrass, is abundant in wet soil (e.g, Nagano et al. 1981; Mattoni 1991). However, the “assumed occupied habitat” and “potentially suitable habitat” mapped in Figure 3.4-7 (p. 3.4-34) includes most of the wetlands in the Reserve. Similarly, the western s-banded tiger beetle occupies tidal salt flat, tidal mud flats, and muddy tidal areas within pickleweed (Nagano et al. 1981; Mattoni 1991) and the western tidal flat tiger beetle occurs on “open, wet, saline soil with sparse vegetation” (Pearson et al. 2006), but the potentially occupied salt marsh habitat in Figure 3.4-9 includes nearly all the delineated wetland. Including inappropriate areas as potential habitat is not being “conservative.” For these and other species, potential habitat should be accurately mapped if the necessary data are available. Even if only coarse mapping is possible, clearly inappropriate areas should not be included. The characteristics of actual appropriate habitat should be described in the text and the likely map errors estimated.
- “Potential habitat” and “potentially occupied habitat” should not be used interchangeably. The latter term suggests a greater probability of presence.
- The description of habitat for the western s-banded tiger beetle on page 3.4-37 is sandy soils, which is incorrect, whereas the description of habitat in Table 3.4-4 (p. 3.4-26) is “Salty coastal habitats including salt marshes, tidal flats, beaches.” This tiger beetle is not a beach species (see above).
- *Cicindela fasciata sigmoidea* was widely present at Ballona around 1980 (Nagano et al. 1981). Mattoni (1991) refers to this species as the “western mudflat tiger beetle” and observed “less than a dozen individuals, all on the mud banks of the channel adjacent to the dunes area.” The species was also reported present in a 1996 report by Hawks Biological Consulting (cited by Johnston et al. 2011). Given the historic presence of this

AS5-32

AS5-33

AS5-34

AS5-35

AS5-36

species and no recent surveys, the estimated “low potential of occurrence” should be justified.

- The western tidal flat tiger beetle is extremely rare and, within California, only known from three or four locations in San Diego, Orange, and Ventura Counties (Pearson et al. 2006). It truly has a very low potential to occur at Ballona and perhaps should not be included in the impact assessment under 1-BIO-1e.
- Figure 3.4-13 should be labelled “Potentially Suitable *Foraging* Habitat....” None of the areas mapped is appropriate breeding habitat.
- In assessing impacts, the Project Design Features are treated as mitigative features. This is not true for Project Design Feature BIO-3 (Habitat Restoration and Monitoring Plan). Bio-3 is a post-restoration plan that has yet to be written and is intended to “evaluate progress toward achieving restoration goals and inform the need for adaptive management” (page 2-136). It will increase the chances for successful restoration, but cannot mitigate impacts and should not be referenced in the sections dealing with adverse impacts.
- 1BIO-1e (p. 3.4-92) impacts to the wandering skipper butterfly (S2) and the western s-banded tiger beetle (Not Ranked). The location and type of the 13.5 ac of lost habitat should be stated. The most serious impacts are probably the fill of 17.9 ac of salt marsh and the conversion of most of the remaining pickleweed habitat in West Area B to low elevation mud flat. Construction monitoring will have no effect on habitat loss and will not protect the larvae and probably not the adults of these small insects. These impacts require more discussion. The main mitigative feature of the restoration is the net increase of appropriate habitat.
- 1BIO-1i (p. 3.4-98) impacts to the Belding’s savannah sparrow (SE). All the impacts to this species are in West Area B, South Area B, and Southeast Area B. Phase 1 includes the fill of 10.2 acres of appropriate habitat. The Project Design Features BIO-1 and BIO-2 and mitigation measures BIO-1b-ii and BIO-1i-i will prevent direct harm to individuals and to breeding success during both Phase 1 and Phase 2, but cannot mitigate for the loss of habitat. Phase 2 will result in 17.9 ac of additional habitat loss through fill. In addition, the planned conversion of salt marsh to mudflat will result in a significant habitat loss that should be estimated and discussed. The permanent loss of habitat is intended to be mitigated by delaying Phase 2 restoration activities until new habitat is successfully created and occupied in Area A (Mitigation Measure BIO-1i-ii). This measure requires that: “At least one nesting pair of Belding’s savannah sparrow will be documented in Area A prior to implementation of work in West Area B. Due to rapid fluctuations in the population observed on-site, the high site fidelity observed, and avoidance of any impacts to the majority of habitat in Area B, one nesting pair will be indicative of the successful establishment of suitable habitat for the species.” In 2015, there were 48 breeding pairs of Belding’s savannah sparrows and nearly all were in West Area B. The observation of a single breeding pair in Area A is not adequate assurance that the local population will not be adversely affected by the restoration. A more protective approach would be to estimate the average number of breeding pairs in those portions of Area B that will not suffer loss of habitat due to fill or tidal inundation. The trigger for Phase 2 could then be when the number of pairs in Area A plus the estimated number of pairs remaining in Area B is at least equal to the historical average number of pairs in Area B for at least two years.

↑ AS5-36  
cont.

AS5-37

AS5-38

AS5-39

AS5-40

AS5-41

- 1BIO-1q (p.3.4-118) impacts to the salt marsh shrew (CSC, S1) and the South Coast marsh vole (CSC, S1S2). The estimates of permanent impact during Phase 2 should include the loss of habitat due to tidal inundation. AS5-42
- Table 3.4-18 (p. 3.4-131) indicates that there would be no impact to the existing 4.2 ac of southern dune scrub habitat. However, in the previous discussions of southern dune-scrub associated species (pages 3.4-94 & 3.4-96) it is stated that 0.1 ac of southern dune scrub would be impacted by Alt 1 Phase 2, leaving 4.0 ac. This discrepancy should be resolved. AS5-43
- Figure 3.4-19 (p. 3.4-135), Figure 3.4-20 (p. 3.4-172), and Figure 3.4-21 (p. 3.4-201) show impacts to "Section 404 Waters of the U.S." (although Figure 3.4-21 is labelled differently). These figures should include Coastal Commission wetlands that do not meet the federal criteria with a separate key and then be titled appropriately. AS5-44
- 2-BIO-3a (Alt 2 would result in an increase in CCC-defined wetland habitats following short-term impacts; page 3.4-171). Figure 3.4-20 shows fill of excess cut material into wetlands in East Area B. This fill is not for restoration purposes and is not an allowable use under Section 30233 of the Coastal Act and should be noted as a "Potentially Significant Impact" in Table 3.4-35 (p. 3.4-177). As noted above, it is unlikely that such fill of wetlands would be approved by the Coastal Commission. AS5-45

### 3.2 Aesthetics, Visual Impacts

- Page 3.2-37 concludes that the construction of the new parking structure in the northwest corner of Area A would not substantially alter the visual quality or character of the larger project site because the structure would be located near other development in Marina del Rey. There should be a visual analysis including renderings of the proposed parking structure with photos from different vantage points within the proposed project area to support this conclusion. AS5-46
- Interpretive Features and Signage are proposed in various locations throughout the project area, including "iconic entry monuments" and "educational public art pieces". Viewshed impacts should be considered with all interpretive features, signage, and art installations. AS5-47

### 3.5 Cultural and Paleontological Resources

- The mitigation measures for cultural and paleontological resources seem adequate: CR-1 Archaeological Monitoring (p.3.5-39), CR-2 Native American Monitoring (p. 3.5-40), CR-3 Treatment of Unanticipated Discoveries (p. 3.5-40), CR-4 Compliance with Secretary of Interior's Standards (p. 3.5-41), CR-5 Paleontological Resources Impact Mitigation Plan (p. 3.5-44), and CR-6 Discovery of Human Remains (p. 3.5-46). With the implementation of the several mitigation measures, there would be no significant impacts. AS5-48

### 3.6 Geology, Seismicity, and Soils

- Throughout the L.A. region there is the potential for strong ground shaking from earthquakes with several possible consequences to the project site (Figure 3.6-2, p. 3.6- AS5-49



5). The entire project site has the potential for liquefaction and there is also the potential for earthquake-induced landslides along the southern bluffs just outside the project area. There does not appear to be a potential for surface fault rupture beneath the Reserve (p. 3.6-10). The project would have no potential to induce impacts, but there could be earthquake-caused impacts to levees, bridges, and parking structures for all three alternatives. The mitigation measures for Geology, Seismicity, and Soils seem adequate: GEO-1b Geotechnical Recommendations (p. 3.6-28) from the Geotechnical Investigation Report will be incorporated in project designs; GEO-1c Geotechnical Investigation and Report will be required for the area of the proposed parking structure (p. 3.6-31); and, GEO-4 Corrosive Soil Testing of any soils that contact concrete or metal foundation elements (p. 3.6-38). None of the potential impacts should be significant after implementation of the mitigation measures.

AS5-49  
cont.

### 3.7 Greenhouse Gas Emission/Climate change

- The primary greenhouse gases associated with the Project are carbon dioxide, methane, and nitrous oxide (p. 3.7-2). These are expressed as CO<sub>2</sub> equivalents. For each alternative, the total emissions associated with the restoration and the post-restoration emissions were calculated and then amortized over 30 years. None of the alternatives exceed the threshold established by the Southern California Air Quality Monitoring District (Table 3.7-5, p. 3.7-12; Table 3.7-8, p. 3.7-15; Table 3.7-11, p. 3.7-17).

AS5-50

### 3.8 Hazards and Hazardous Materials

- The third paragraph on page 3.8-4 states that a bioassay study conducted on sediment samples from Areas A and B taken in 2012 concluded that the observed toxicity response in marine arthropods was due to sediment grain size and not chemical toxicity. Based on this result, it would seem that these sediments are not suitable for ocean disposal regardless of the reason for the observed arthropod response. However, the EIR concludes the opposite. Please provide additional explanation as to why, given the result of this bioassay study, these sediments are suitable for ocean disposal.
- Please provide a map of all SoCal wells and facilities in the project vicinity including active and abandoned wells.
- On page 3.8-8, the EIR states that "Routine surface monitoring of SCG wells found storage gases were reaching the surface through casing leaks and along the well casings in three wells. Biogenic gas was detected in four abandoned wells in the PDR field area, resulting in re-abandonment of these wells to eliminate leaks."
  - Where are the three leaking wells located? When was the "routine surface monitoring" conducted?
  - Where are the four re-abandoned wells located? Has there been subsequent monitoring to determine if the re-abandonment was successful in eliminating the pathway for biogenic (or storage) gas to reach the surface?
  - Has SoCalGas (or any other entity) conducted a comprehensive analysis of the age and status of each well casing (in use or abandoned) and the potential for future leaks of storage or biogenic gas?
  - Once the wetland is restored, it will become harder and result in more impacts to address poorly abandoned or leaking wells. We recommend a thorough analysis

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of all existing and abandoned wells in the project footprint to determine what work, if any, needs to be done in advance of the restoration to ensure that restored habitats are maintained and disturbance of these habitats in the future is minimized.

- On page 3.8-22, the EIR states that petroleum hydrocarbons may be encountered in near-surface soils during the well abandonment process. The EIR further states that SoCalGas would determine if soil contamination is present and would conduct remediation activities. However, the EIR provides no details on what concentrations of hydrocarbon would constitute contamination, what remediation activities would be conducted, and to what concentrations or screening levels SoCal Gas would be required to clean-up contaminated soil. The EIR does state SoCal Gas would be subject to local requirements from the LACoFD but does not provide specific information about what those requirements are and if they are compatible with the intended end use of the site (i.e., restoration to tidal wetlands). The EIR should address these issues in more detail.
- The EIR should address habitat impacts associated with potential future leaks or releases from the gas storage reservoir located beneath the proposed wetland complex. This analysis should consider the potential for a catastrophic release as well as slow leaks associated with damaged well casings or natural pathways.

AS5-53  
cont.

### 3.9 Hydrology and Water Quality

- The discussions related to sediment quality (i.e., p. 3.9-10) discuss results from several different studies which are included in in Appendix F. While incorporating lengthy technical analysis in an Appendix is a useful and common strategy, the text in the EIR includes very little quantitative data or analysis. For example, several sections of the EIR discuss comparing result of soil sampling at Areas A and B to ER-Ls, ER-Ms, and Beneficial reuse values. However, these values are generally not specifically described in a table or in the text of the EIR. To provide the reader the opportunity to assess the conclusions in the EIR more readily, we recommend that the water quality and sediment quality analysis be expanded to explicitly discuss these and other screening levels as well as provide explicit comparison of sampling data to these levels.
- Similar to the first bullet in the previous section, the third paragraph on page 3.9-10 states that a bioassay study conducted on samples from Areas A and B taken in 2012 concluded that the observed toxicity response in marine arthropods was due to sediment grain size and not chemical toxicity. Based on this result, it would seem that these sediments are not suitable for ocean disposal regardless of the reason for the observed toxicity response. However, the EIR does not appear to make this conclusion. Please provide additional explanation as to why, given the result of this bioassay study, these sediments are suitable for ocean disposal.
- In addition to the elements listed in the EIR, the Sampling and Analysis Plan required by Mitigation Measure WQ-1a-ii should be required to include the following:
  - A statistical analysis demonstrating that the sampling plan is adequate to fully characterize potential contamination at the site
  - A clear description of the sampling protocols, including equipment, location and depth of samples, and description of use of compositing or duplicate sampling (if applicable).

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AS5-56



- A description of laboratory procedures and methods used
  - A discussion of how sediment data will be used to determine which materials will be used for which restoration activities.
- AS5-56  
cont.
- WQ-1a-ii(e) describes the potential for “alternative disposal options” to be considered for uncontaminated soil and groundwater. These alternative disposal options, if they are different than what is being proposed, should be fully examined in the EIR.
- AS5-57
- The DEIR/S proposes Alternatives that would install a meandering creek planform in a man-made tidal estuary. Although meanders would be expected to exist in a channel situated in a relatively elevated, or perched, tidal marsh, a meander bend seems unlikely to be compatible with a full-tidal inundation setting. Also, typically, meanders are translational features that progressively migrate downstream in the alluvial floodplain. However, the project meander is proposed to be locked in-place by grade controls and rock dikes. It would be helpful to include a geomorphic analysis in the EIR/S of the functionality of the proposed meander in the project, and compare it to sinuous and straight concept design channels. Would a curvilinear design be expected to facilitate floodplain inundation better than a straight channel? Would a lesser meander amplitude, if included as the initial channel design, be more or less likely to smoothly evolve into the dynamic equilibrium channel geometry?
- AS5-58
- The Total Maximum Daily Load allocations (TMDL) for the Ballona estuary indicate that sediment is a major impairment to beneficial uses of water. The TMDL indicates that 3.1 million cubic yards of sediment impacts water quality. Although none of the Alternatives approach this target volume of sediment removal, based on this initial - if rudimentary - TMDL evaluation, the Alternative that removes the largest quantity of the sediment fill from the project area would also appear to be the best Alternative from the TMDL perspective (whether or not a surrogate TMDL objective is negotiated, as is envisioned in the EIR/S). Also, reconfiguring the preliminary design of each Alternative in order to maximize the volume of fill removed from the historic wetland is likely to increase the environmental benefit of that Alternative.
- AS5-59
- Likewise, the volume of the tidal prism, which is estimated to increase by 15% with Alternative 1, increases in proportion to the volume of fill removed. Because tidal circulation, in effect, flushes the estuary and improves water circulation, the Alternative that removes the largest quantity of sediment from historic wetlands should also be recognized as the environmentally superior Alternative from a water quality perspective. Any increase in fill removal under the Alternatives, in addition to that presented in the conceptual design for each of the Alternatives, would also be expected to have a commensurate improvement on water quality. A table should be included in the EIR/S that contrasts the tidal prism volume for each Alternative and Phase, and promotes water quality by maximizing the volume of fill that can be removed under each Alternative.
- AS5-60
- In order to facilitate an evaluation of each project Alternative, the EIR/S should include for each of the Alternatives and Phases inundation maps that show water depth-contours
- AS5-61

over the project area for MHHW and MLLW elevation during dry season low river flow, and for 10-year, 25-year, and 100-year storm conditions.

- Because of the limited reliability of even the most popular sediment transport models, it is important that the Monitoring and Adaptive Management Program for managing sediment accumulation and erosional hotspots be fully developed as mitigation, and that the viability of the Monitoring and Adaptive Management Program can be fully assessed. For example, the DEIR/S indicates that a 'mutually agreed on course of action' would be taken to address any buildup of sediment to the Marina Del Rey harbor entrance. This seems reasonable; however, it does not define the actual mitigation that would occur. In fact, the sediment transport analyses predicted accumulation in the mouth of the channel (immediately adjacent to the harbor entrance) would double under Alternative 1, so it seems imperative that more explicit direction be included in the Adaptive Management Plan for this example in particular. For excavation and removal of sediment accumulation throughout the project area, it would be helpful to discuss the BMPs that would be employed to limit the access and excavation footprint, and to provide for the least disruptive construction methods considering the wildlife expected to reside there. For sediment disposal, the EIR/S should identify and prioritize specific disposal sites, and stipulate limits on contaminant levels, grain sizes, and volumes for those sites, as applicable.
- The use of pyrethroids and other pesticides in the Ballona watershed has been identified as a source of aquatic toxicity in the Ballona channel. These pollutants would likely persist in the restoration project. It is likely that BMPs for targeted pollutants would also treat/remove pesticides to some extent, even so, pyrethroids and other pesticides are not targeted for TMDL reduction in the 2016 Enhanced Watershed Management Program. Identification, and removal or burial, of accumulations of sediments that are associated with pesticide pollutants should be specifically targeted in the Monitoring and Adaptive Management Program.
- Although it is briefly stated that the Freshwater Marsh is functioning properly, it is evident that there are algal blooms occurring in the periphery areas of the marsh. Culvert 5 (existing) would bring Freshwater Marsh overflow into North Area B in Alternative 1 and 2. Culvert 6 (at the existing weir location) and Culvert 8 (new) would overflow to Southwest Area B. No culverts are apparent in Alternative 3, so that overflow of the Freshwater Marsh under this Alternative remains to be identified. The EIR/S should discuss the apparent elevated nutrient levels in the Freshwater Marsh and assess whether or not the project would be impacted by Freshwater Marsh overflow. Good circulation and improved tidal influence in the project areas could be a key to addressing the influx of nutrient pollution from the Marsh and Ballona Creek, if present.

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### 3.10 Noise

- Land uses in the vicinity of the Reserve (Figure 3.10-3, p. 3.10-10) that are sensitive to noise and vibration are primarily residential and transient lodging (Table 3.10-2, p. 3.10-11).
- The maximum noise limits at multi-family residential structures within the County is 80 dBA (Table 3.10-7, p. 3.10-19). The City standards are based on noise levels 50 ft from the source regardless of levels at the receptor site if the latter is within 500 ft of the source, but the standard is waived if compliance cannot be achieved with noise reduction devices or techniques (p. 3.10-33). Construction noise would periodically exceed county standards at the nearest residential area and would generally exceed City standards (p. 3.10-33).
- Nine mitigation measures NOI-1-i through NOI-1-ix are proposed that require noise reduction devices, placement of stationary equipment and staging areas away from sensitive land uses, use of sound barriers, avoidance of the simultaneous operation of multiple diesel-powered machines, time restrictions of operations, notification and signage with schedules and contact information, and noise monitoring at the nearest multi-family residential areas to insure that noise levels do not exceed 80 dBA (p. 3.10-34). With these mitigation measures, both the County and City standards would be met.
- The County Noise Ordinance prohibits the operation of devices that result in vibration greater than 0.01 in/sec at the boundary of private property or at 150 ft from the source on a public space or right-of-way (p.3.10-23). The same standard was applied to the City, which apparently does not have its own standard. This threshold would be exceeded at four multi-family residential locations (Table 3.10-13, p. 3.10-37). Mitigation Measure NOI-2 prohibits the operation of equipment like bulldozers that produce high levels of vibration within 100 ft of existing residential structures (p. 3.10-38). With this mitigation the vibration standards would not be exceeded.
- With the proposed mitigation measures, none of the three alternatives have significant negative noise or vibration impacts.

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### 3.11 Recreation

- Although most of the Reserve is not publically accessible, except for guided tours, there are important recreational facilities and activities closely associated with the Reserve (Figure 3.11-1, p. 3.11-6): (1) three rowing clubs maintain boat houses in the marina and practice and compete on Ballona Creek, which provides the necessary 2,000 m stretch for competition; (2) baseball fields and associated infrastructure in South Area C are used by the Culver Marina Little League; (3) the Ballona Creek Bike Path is a Class I bike path that runs for 7 miles along the north levee of Ballona Creek; and, (4) the Marvin Braude Bike Trail is a Class I and II bike path that runs 22 miles along the coast from Pacific Palisades to Torrance County Beach; it leaves the beach at Washington Street in Venice, leaves Washington at Mildred, loops around Marina del Rey parallel to Admiralty, turns west on Fiji Way, intersects the Ballona Creek Bike Path, and crosses Ballona Creek on the Pacific Avenue Bridge.
- Alternatives 1 and 2 require the permanent rerouting of the Ballona Creek Bike Path around the perimeter of Area A. Alternative 3 maintains the existing route along the north levee of Ballona Creek; in addition, a path along the perimeter of Area A may be constructed.

AS5-66

- Alternatives 1 and 2 remove levees and reconfigure Ballona Creek. As a result the longest straight stretch will be reduced to about 1,372 meters, so rowing competition would no longer be possible (p. 3.11-11). The ports of Long Beach and Los Angeles are existing alternative sites for races. Alternative 3 does not reconfigure the creek and would not affect rowing.
- Alternatives 1 and 3 entail fill in the eastern portion of South Area C, but would not have a permanent impact on the existing ball fields. Alternative 2 requires the fill of much of South Area C, including the ball fields. It is possible that ball fields could be reconstructed after completion of the Project, but this is not planned. Other little league fields are available within the region.
- A significant impact on recreation is defined (p.3.11-9) as occurring if the Project would: "Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated." By this definition, there are no significant impacts of any of the alternatives. Current users of Ballona Creek for rowing and of the ball fields for little league may not agree with this definition of significant impact.
- All the alternatives will increase opportunities for hiking and nature viewing if the proposed paths and viewing areas are actually constructed (but see p. 2-19 and discussion above concerning public access). Proposed bike paths and pedestrian paths are shown in Figure 2-18 (p.2-91), Figure 2-23 (p. 2-101), Figure 2-45 (p. 2-162), and Figure 2-54 (p. 2-186).
- Bike paths and trails should be restricted to degraded areas and or areas that are already used, outside of sensitive habitat areas.

### 3.12 Transportation and Traffic

- Existing traffic volumes and levels of service were measured at morning and evening rush hours at 18 intersections (Figure 3.12-1, p. 3.12-2) and are presented in Table 3.12-2 (p.3.12-5). The intersection numbers from Figure 3.12-1 should be added to Table 3.12-2 to facilitate its use.
- Mitigation Measure TRANS-1a (Construction Traffic Management Plan) must incorporate Mitigation Measure TRANS-1b (Restriction of Lane Closures) that stipulates that lane closures on Culver Boulevard would only occur from 11:00 PM to 4:00 AM. The bridge across Lincoln Boulevard would also be constructed during those night-time hours (e.g., p. 3.12-13). Why doesn't TRANS-1b explicitly apply to both Culver Boulevard and Lincoln Boulevard?
- TRANS-1a is called the "Traffic Control and Safety Assurance Plan" in Section 3.8 rather than the "Construction Traffic Management Plan" as in Section 3.12. This should be corrected.

### 3.13 Utilities and Service

- All of the alternatives would result in reduced parking footprints and less stormwater runoff (e.g., p.3.13-9).
- All of the alternatives would use reclaimed water for irrigation and dust suppression, of which there is an ample supply (e.g., p. 3.13-10).

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- All of the alternatives would utilize some combination of two available landfill sites and two available ocean disposal sites for excess materials removed from Area A as part of the restoration. There is ample capacity at those four sites (e.g., p. 3.13-12).
- All of the alternatives would reduce substantially the illegal waste that is currently generated at the site by illegal dumping and homeless encampments (e.g., p. 3.13-13).
- None of the alternatives have significant impacts on waste water treatment, water supplies, landfill capacity, or solid waste generation.

AS5-71  
cont.

### 3.14 Socioeconomics and Environmental Justice

- None of the alternatives would result in adverse employment-related or economic impacts, including on the availability of affordability of housing. The Project would result in a short-term increase in employment of construction workers.
- None of the alternatives would result in substantial social change affecting people or communities. Illegal homeless encampments periodically have been established in the reserve and removed. CDFW has attempted to connect displaced individuals with local resources. These activities are independent of the Project. However, the Project would result in changes in topography, vegetation, and site management that would make establishment of encampments unlikely. To minimize impacts to individuals, CDFW will try to partner with the Los Angeles Homeless Service Authority to assist any people being removed from the project site (e.g., p. 3.14-17).
- None of the alternatives result in disproportionately high and adverse environmental impacts on minority or low income populations with regard to Aesthetics, Air Quality, Contamination Affecting Subsistence Fishing, Geology Soils and Seismicity, Contributions to Green House Gases, Hazards & Hazardous Materials, Noise, Transportation & Traffic, or Utilities & Service Systems.
- Alternatives 1, 2, and 3 each has the potential to impact archeological sites that would disproportionately affect Native Americans groups (e.g., p. 3.14-20). However, mitigation measures CR-1 Archaeological Monitoring (p. 3.5-39) and CR-2 Native American Monitoring (p. 3.5-40) would reduce this potential impact to less than significant.
- Alternatives 1 and 3 have no impacts on recreation that disproportionately affect minority or low income populations. Alternative 2, on the other hand, results in the loss of the little league baseball fields in South Area C serving the Culver Marina Little League. Several of the census tracts in the league's boundaries are identified as minority or low income populations (p. 3.14-26). Games would have to be relocated to other little league fields in the area, which would have little impact on car travel, but would substantially increase travel time for anyone traveling by bus. This is considered a Potentially Significant Impact.

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### Chapter 4. Other Considerations (required by CEQA)

- All of the action alternatives result in the consumption of energy, but would not cause a significant adverse impact on local and regional energy supplies or requirements (p. 4-8).
- Use of gasoline and diesel during construction would not have a measurable effect on energy supplies. During post-construction, energy use would be similar to baseline. The parking garage requires a variety of energy inputs for its operation (p.4-9). Mitigation

AS5-73

measures EC-2a, b, & c require energy-efficient fixtures, lighting levels appropriate for safety, no daytime lights when ambient light is sufficient, and a demand-control ventilation system. With these mitigation measures restoration and post-restoration activities associated with each of the action alternatives would “cause no adverse effect on local and regional energy supplies or requirements for additional capacity, would have a neutral effect on peak and base period demands, would comply with existing energy standards by directly supporting and furthering efforts toward achieving those standards, and would have no adverse effect on energy resources.”

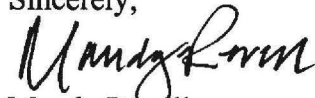
- CDFW preliminarily identified Alternative 2 as the Environmentally Superior Alternative (p. 4-12). Alternative 2 provides benefits similar to Phase 1 of Alternative 1 but avoids the impacts to the existing muted tidal habitat in West Area B. Although Alternative 3 has fewer environmental impacts than the other alternatives, its environmental benefits are much less.

AS5-73  
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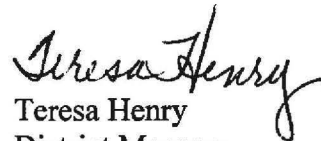
AS5-74

Please note that the comments provided herein are preliminary in nature. More specific comments may be appropriate as the project develops and an alternative is selected. Coastal Commission staff requests notification of any future activity associated with this project or related projects. Additionally, the comments contained herein are those of Coastal Commission staff only and should not be construed as representing the opinion of the Coastal Commission itself. Thank you again for the opportunity to comment on the Draft EIR. We look forward to future collaboration on preservation of coastal resources within the South Coast region. If you have any questions or concerns, please do not hesitate to contact us at the Coastal Commission’s Long Beach office.

Sincerely,



Mandy Revell  
Coastal Program Analyst



Teresa Henry  
District Manager



## Letter AS5: California Coastal Commission

AS5-1 CDFW appreciates the comments provided by California Coastal Commission staff on the Draft EIS/EIR. In reviewing the comments submitted, it appears that many of the issues raised consist of requests for more detailed information and analysis that is connected to the coastal development permit (CDP) that would be required as described in Draft EIS/EIR Table 1-1, Summary of Required Permits and Approvals. Where related to the CEQA analysis, the requested information is provided in this Final EIR; otherwise, it will be provided (as necessary) as part of the CDP application and review process, which will include the Final EIR and other information to demonstrate the Project's consistency with the Chapter 3 policies of the California Coastal Act.

AS5-2 The comment accurately summarizes the purpose of the proposed restoration of the Ballona Reserve. See, generally, Draft EIS/EIR Section ES.3 and Section 1.1, *Purpose and Need/Project Objectives*.

The Draft EIS/EIR clearly identifies the portion of the Project Site that is subject to the Coastal Commission's jurisdiction. The summary of applicable state laws, regulations, plans, and standards for geology, seismicity, and soils in Draft EIS/EIR Section 3.6.3.2, under the heading "California Coastal Act of 1976," has been clarified to emphasize this as follows: "The Ballona Reserve is within the Coastal Zone, supports features subject to the jurisdiction of the California Coastal Commission, and is subject to the Coastal Act, including the California Coastal Commission's Coastal Development Permit approval requirement. The Coastal Development Permit process requires maps; Project plans; CEQA review; relevant grading, drainage, erosion control, geology and soils, and/or geotechnical plans and a report; local approval of the Project; and various fees and filings." Draft EIS/EIR Section 3.4.2.2, regarding the environmental setting for Biological Resources, clarifies which "portions" of the Ballona Reserve are subject to Coastal Commission jurisdiction. Under the heading "Wetlands and Waters of the State under CCC Jurisdiction," Section 3.4.2.2 discloses that 195.8 acres of wetlands under Coastal Commission jurisdiction and 83 acres of Coastal Commission non-wetland waters (open water) were identified during the jurisdictional delineation conducted on the Project Site and verified by Coastal Commission, for a total of approximately 279 acres subject to the Commission's jurisdiction. See Draft EIS/EIR Table 3.4-5, Wetland and Non-wetland Potential Jurisdictional Resources, and Draft EIS/EIR Figure 3.4-18, California Coastal Commission Jurisdiction. The text has been revised to clarify the entire site is within California Coastal Commission jurisdiction of the Coastal Zone Management Act, of which a portion supports identified wetland features also of California Coastal Commission jurisdiction.

CDFW recognizes that a CDP would be required from the California Coastal Commission to implement any of the restoration alternatives. See, for example, Draft EIS/EIR Table 1-1, Summary of Required Permits and Approvals, which identifies the permit requirement; and Draft EIS/EIR Section 3.6.3.2, summarized above.



CDFW also recognizes that Chapter 3 of the Coastal Act contains the relevant provisions. See also Draft EIS/EIR Section 3.4.3.1 (“The enforceable policies ... are Chapter 3 of the California Coastal Act of 1976”).

Draft EIS/EIR Section 3.1.3.1, *Land Use and Planning*, has been revised to delete references to a certified Local Coastal Program for the Playa Vista area.

AS5-3 As described in Draft EIS/EIR Section 1.6.1, *Corps’ Use*, a main purpose of the Draft EIS/EIR was to inform the Corps’ evaluation of compliance with the 404 and 408 permit process since CDFW, in coordination with LACFCD, has requested to implement a large-scale restoration project at Ballona Wetlands Ecological Reserve. The Draft EIS/EIR contains information on federal wetland and non-wetland waters that CDFW preliminarily understands meets the Corps needs for permit review and to disclose that information to the public and decision-makers. However, the Corps will be the ultimate decision-maker for its Clean Water Act permit processes. See Draft EIS/EIR Section 3.4, *Biological Resources*, which provides restoration information in a habitat-based context: Draft EIS/EIR Table 3.4-1, Habitat Categories, Types, Descriptive Characteristics, and Existing Acreage, provides a detailed breakdown of habitat types; Draft EIS/EIR Figure 3.4-2, Study Area Habitat Types, shows those areas; and CDFW’s vegetation alliance classifications are provided in Draft EIS/EIR Appendix D2, *Vegetation Alliance and Association Acreages by Habitat Type*. See also Draft EIS/EIR Section 3.4.2.2, under the heading “California Rapid Assessment Method (CRAM) Assessments,” which evaluates pre- and post-restoration conditions and functional lift that would be provided.

AS5-4 CDFW will take this request for web-based technological enhancement into consideration in future postings of documents on-line.

AS5-5 Draft EIS/EIR Figure 1-1 was provided to inform the Corps and public of the extent of Section 10 waters on the Project Site. Note, the figure legend key depicting a blue hachured area is shown on the map within West Area B but is somewhat difficult to see against its blue background. Information on estimated Coastal Commission wetland areas was provided in Draft EIS/EIR Table 3.4-5, Wetland and Non-Wetland Potential Jurisdictional Areas, and Figure 3.4-18, Coastal Commission Jurisdiction of the EIS/EIR, which indicates that 195.8 acres of Commission wetlands and 83 acres of Commission non-wetland waters (open water) were identified during the jurisdictional delineation conducted on the Project Site.

See General Response 6, *Hydrology and Water Quality*, for freshwater habitats (Final EIR Section 2.2.6.2), and for freshwater marsh (Final EIR Section 2.2.6.3), which addresses multiple comments received regarding the freshwater marsh.

AS5-6 See General Response 6, *Hydrology and Water Quality*, for freshwater habitats (Final EIR Section 2.2.6.2), and for freshwater marsh (Final EIR Section 2.2.6.3), which addresses multiple comments received regarding the freshwater marsh.



- AS5-7 CDFW is open to other projects in the vicinity taking excavated soil that would not be used onsite. Currently, CDFW is not aware of any projects that desire such soil and may not identify any such projects until the quantity of excavated soil that would not be used onsite is better known.
- AS5-8 See Response AS5-2, regarding CDFW's recognition that the Coastal Commission's Coastal Development Permit requirements should be met for CDP issuance.
- AS5-9 Draft EIS/EIR Table 2-3, Alternative 1 Post-Restoration Habitats and Acreages; Table 2-22, Alternative 2 Restored Habitats and Acreages; and Table 2-26, Alternative 3 Restored Habitats and Acreages, summarize anticipated post-restoration habitats. In addition, Draft EIS/EIR Appendix B1, *Preliminary Design Report*, contains an Appendix A, which provides information from Psomas on control points (page B1-167) and vertical datum conversion (page B1-169) for Areas A, B, and C of the Ballona Reserve. For habitat elevation cross-sections for the Project, see pages B1-110 – B1-127. CDFW acknowledges the recommendation to include elevation boundaries for restored habitat. However, CDFW determined that such information will not be more informative for purposes of its assessment of impacts to existing habitat. As a result, CDFW decided not to prepare such additional tables for this Final EIR. In addition, future detailed design drawings will include specific mapped elevation values for each habitat region. See CEQA Guidelines §15204 (“CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended in the comment.”); see also *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1125 (“CEQA does not require a lead agency to conduct every recommended test and perform all recommended research to evaluate the impacts of a proposed project. The fact that additional studies might be helpful does not mean that they are required.”).
- AS5-10 For inundation information, see Draft EIS/EIR Appendix B7, *Ballona Wetlands Inundation Memo*; Figure 1-1, Existing Topography, Tidal Inundation, and Section 10 Waters; and discussions of post-restoration inundation in various areas of the Project Site such as in Section 2.2.2.1 regarding Phase 2 restoration in West Area B (“only a limited portion of the existing salt pan receives periodic tidal inundation and evaporation, which also sustains and supports salt pan functions. The new berm would be overtopped by monthly/seasonal spring high tides, providing infrequent tidal inundation, ponding, and subsequent evaporation in the salt pan.”) and regarding revegetation of wetland and transitional areas (“Irrigation for low and middle tidal marsh areas would not be required because these areas would receive regular tidal inundation.”). As mentioned in Response AS5-9, CDFW acknowledges the recommendation to prepare inundation maps for each of the alternatives. However, CDFW determined that such additional maps would not be informative for purposes of its assessment of impacts to existing habitat. As a result, CDFW decided not to prepare such additional maps for this Final EIR. In addition, future detailed design drawings will include specific mapped elevation values.



- AS5-11 Regarding where revegetation would occur, see, e.g., Draft EIS/EIR Section 2.2.1.1, *Ecosystem Restoration*; Section 2.2.2.1, *Alternative 1: Ecosystem Restoration*, including restored habitats and revegetation of graded and disturbed areas, each during Phase 1 and Phase 2. The Habitat Restoration and Monitoring Plan that is required for restoration at Ballona Reserve further requires the development of a specific revegetation plan showing areas of restoration. After further design/ engineering, more specific information on the location and extent of these revegetation areas to enable planting will be available. In light of the fact that additional information will be developed as part of the continued design process, the information in the Draft EIS/EIR represents CDFW's good faith disclosure of information at this point in the design process. As a result, CDFW decided not to prepare such additional maps for this Final EIR.
- AS5-12 See the Draft EIS/EIR discussions of Impact 1-BIO-3a in Section 3.4.6.1, Impact 2-BIO-3a in Section 3.4.6.2, and Impact 3-BIO-3a in Section 3.4.6.3 for a discussion of the impacts to wetlands/waters as defined by the Coastal Act including Tables 3.4-20B, 3.4-34, and 3.4-42 showing the change in acres of wetland habitat.
- AS5-13 Figures 2-30 through 2-32 were included in the Draft EIS/EIR for purposes of environmental review and determined by CDFW to be sufficient to evaluate impacts to resources that would result the Project and alternatives under CEQA. Preliminarily, CDFW understands that the Corps also determined that these figures would be sufficient to evaluate impacts under NEPA; however, the Corps will be the ultimate decision-maker for all NEPA-specific aspects of the analysis. A description of proposed infrastructure, utilities and phasing can be found in Draft EIS/EIR Section 2.2.2.4, *Alternative 1: Infrastructure and Utility Modification*; Section 2.2.3.4, *Alternative 2: Infrastructure and Utility Modification*; and Section 2.2.4.4, *Alternative 3: Infrastructure and Utility Modification*. Impacts to infrastructure and utilities from the Project and alternatives by phase are provided in Draft EIS/EIR Section 3.13, *Utilities and Service Systems*. More specific information on the location and extent of infrastructure and utilities will be developed during the final restoration design/ engineering.
- AS5-14 See Response AS5-2 and Response AS5-5 regarding information presented in the Draft EIS/EIR about the Coastal Commission's wetland and non-wetland jurisdiction in the Ballona Reserve. See Response AS5-9, which explains why the requested additional mapping is not being provided as part of the Final EIR.
- AS5-15 Draft EIS/EIR Table 2-24 contains earthwork soil volume and where cut and fill would occur. As shown in Table 2-24, Alternative 2 would require between zero cubic yards (cy) of material to be relocated off-site and 10,000 cy. Tables 2-8 and 2-28 contain similar information for Alternatives 1 and 3 as well as an additional column comparing the alternative to Alternative 1 to help the reader differentiate among the alternatives. The exact amount of material is unknown because it has variable compaction and densities, as described in the footnote of the table.



- AS5-16 The public access and visitor facilities, such as trails and signage, are part of the Project and alternatives analyzed in the Draft EIS/EIR. See, e.g., CEQA Project Objective 4 in Draft EIS/EIR Section ES.3.2 and Section 1.1.2: “Develop and enhance wildlife dependent uses and secondary compatible on-site public access for recreation and educational activities. ...” There is no conflict in the Draft EIS/EIR regarding whether public access and visitor facilities would be provided. Upon a positive approval by the applicable permitting agencies, such facilities would be provided (consistent, as noted in the comment, with the detail provided in the Draft EIS/EIR) when sufficient, available funding has been identified.
- AS5-17 See Draft EIS/EIR Table 2-8, which identifies the anticipated amounts of cut, fill, and export for the proposed project; Table 2-24, which identifies the anticipated amounts of cut, fill, and export for Alternative 2; and Table 2-28, which identifies the anticipated amounts of cut, fill, and export for Alternative 3.
- AS5-18 As described in Draft EIS/EIR Section 2.2.3.1, *Alternative 2: Ecosystem Restoration*, Alternative 2 would include restoration of this area and is initially identified as upland restoration in Draft EIS/EIR Figure 2-43. Figure 2-43 is conceptual in nature with sufficient detail to allow environmental analysis yet flexible enough to allow refinement in the Habitat Restoration and Monitoring Plan based on more specific design/engineering and input as part of the permitting process. See also Response AS5-45.
- AS5-19 Contrary to just being a disposal site with planting, Area C was evaluated for various types of restoration as part of the large-scale restoration of the Ballona Wetlands. Significant design/engineering work has been conducted for restoration of Area C at a level to allow meaningful environment review yet flexible enough to allow refinement in the Habitat Restoration and Monitoring Plan that is a feature of the project. CDFW believes that use of fill is sensible in Area C to re-contour the site to provide the necessary topography, including slopes and aspect, buffering and separation for upland restoration and public access. The final Habitat and Restoration and Monitoring Plan for Area A would only include activities that are authorized in applicable permits.
- AS5-20 Draft EIS/EIR Figures 3.2-2 through 3.2-13 provide simulations of before and after conditions from selected key observation points (KOPs) as described in the environmental setting for Aesthetics (Draft EIS/EIR Section 3.2.2.2). KOP # 1 (View Southeast from Lincoln Boulevard at Fiji Ditch) is most applicable to this comment and provides a view across Area C north from Lincoln Boulevard that captures where most of the fill activity for Area C would occur. The analysis of direct and indirect impacts to aesthetics (Draft EIS/EIR Section 3.2.6) concludes that aesthetic impacts from restoration, including upland restoration of Area C, would be less than significant. Figures 2-2 and 2-44 in the Draft EIS/EIR show the contour lines after fill placement, and Figure 2-53 shows the contours without any fill placement. Figures 1.3 through 1.6 of Draft EIS/EIR Appendix B1 show similar information.



- AS5-21 Compare Draft EIS/EIR Figure 2-4, Alternative 1, Phase 1: Proposed Habitats, with Figure 2-1, Alternative 1, Phase 2: Proposed Habitats, which shows that under Phase 2, the gas wells in the southwest corner of Area A would be abandoned and reconfigured during Phase 2, which accounts for the different in acreage. See also the discussion in Section 2.2.2.4 regarding well abandonment during Phase 2 of Alternative 1.
- AS5-22 See discussion in the Draft EIS/EIR of Impact 1-BIO-3a in Section 3.4.6.1, Impact 2-BIO-3a in Section 3.4.6.2, and Impact 3-BIO-3a in Section 3.4.6.3 for a discussion of the impacts to wetlands/waters as defined by the Coastal Act including Draft EIS/EIR Table 3.4-20B, Table 3.4-34, and Table 3.4-42 showing the change in acres of wetland habitat.
- AS5-23 The habitats shown in Draft EIS/EIR Figure 2-1 and Tables 3.4-14 and 3.4-15 are conceptual and intended to show the habitats that would exist immediately after Phase 2 is completed.

Significant design/engineering work has been conducted for restoration of the Project Site, including West Area B, at a level to allow meaningful environment review while allowing for refinement over time in accordance with monitoring conducted pursuant to the proposed Habitat Restoration and Monitoring Plan. As described in Draft EIS/EIR Section 2.2.2.6, *Alternative 1: Monitoring and Adaptive Management*, “the goal of monitoring would be to document trends in habitat development and assess progress toward meeting restoration objective as the restoration evolves during the 10-year monitoring period.” Furthermore, this documentation would include annual habitat monitoring to “present an analysis and discussion of the data collected over the previous year” and “incorporate data and trends from previous years to create a complete picture of post-restoration habitat development” as described in Draft EIS/EIR Section 4.13, *Reporting*, of the Conceptual Habitat Restoration and Adaptive Management Plan.

The Habitat Restoration and Monitoring Plan would include the development of a specific revegetation plan showing areas of restoration. As summarized in Draft EIS/EIR Table 2-2, Project Design Feature BIO-3, Habitat Restoration and Monitoring Plan, requires that, “[p]rior to implementation of restoration activities involving vegetation or land disturbance, a Habitat Restoration and Monitoring Plan shall be prepared by a contractor under the direction of CDFW, for CDFW approval, and include the monitoring and adaptive management provisions detailed in Section 2.2.2.6, *Alternative 1: Monitoring and Adaptive Management*, of Chapter 2, *Description of Alternatives*. The Habitat Restoration and Monitoring Plan can be a single site-wide plan that addresses every habitat type and species impacted by the Project, or individual restoration plans can be developed based on appropriate habitat types/ species. All ongoing and post-restoration activities (e.g., habitat monitoring) shall comply with a corresponding approved Habitat Restoration and Monitoring Plan that should include applicable mitigation measures from this [Final EIR]. However, for purposes of





assessing impacts in the Draft EIS/EIR, the Habitat Restoration and Monitoring Plan is considered a mechanism to implement the standards and criteria detailed in Section 2.2.2.6 that will ensure successful performance of restoration actions.”

Regarding the comment about Draft EIS/EIR Table 3.4-14, mudflat is expected to have a net gain after Phase 2, even though implementation of Phase 2 of Alternative 1 is expected to decrease mudflat by 1.7 acres as compared to the end of Phase 1.

Draft EIS/EIR Section 3.4.6, *Biological Resources; Direct and Indirect Impacts*, identifies the anticipated loss of saltmarsh after implementation of Phase 2 of the proposed project in Table 3.4-15, Summary of Changes in the Extent of Southern Coastal Salt Marsh Habitat as a Result of Alternative 1, and concludes that impacts to saltmarsh habitat would be less than significant post restoration since there would be a net gain of acres available (see analysis of Impact 1-BIO-2b).

Regarding the potential need to salvage and replant existing plants, Draft EIS/EIR Section 2.2.2.5, *Alternative 1: Implementation and Restoration Process*, describes under the heading Clearing and Grubbing that, “[n]ative plants and seeds/cuttings may be salvaged and reused for revegetation of restored areas.” See also the Conceptual Habitat Restoration and Adaptive Management Plan (Draft EIS/EIR Appendix B3), which discusses the salvaging of existing vegetation for use in restored habitats in Section 3.2.3, *Vegetation*. Mitigation Measure 1-BIO-1b (Special-Status Plants) of the Draft EIS/EIR also includes the salvaging and transplantation of perennial plant species.

AS5-24 Under Phase 2 of the Project, “[o]nce West Area B is restored (Phase 2 restoration), a bank of culverts (e.g., four 5-foot diameter pipes) with gates would be installed in the new West Area B levee and under Culver Boulevard between South and West Area B to maintain this connection” (Draft EIS/EIR Section 2.2.2.1, *Alternative 1: Ecosystem Restoration*). This structure is shown in the location of an existing channel between West and South Area B (Culvert #2 in Figure 2-1, Alternative 1, Phase 2: Proposed Habitats). Page 2-76 of the Draft EIS/EIR has been revised for consistency. As revised, the text says: “In Phase 2, new, larger culverts would be installed under Culver Boulevard, extending to reach West Area B under the West Area B levee, to allow for the option of greater tidal flows between West Area B and South Area B. New gates (e.g., self-regulating tide gates or similar structures) ~~could~~ would be added to the culverts to maintain management options for South and Southeast Area B.”

AS5-25 Draft EIS/EIR Section 2.2.2.5, *Alternative 1: Implementation and Restoration Process*, describes under the heading “Nonnative Plant Material Treatment” the program to address invasive species. “Specifically, invasive-nonnative species populations designated as High by Cal-IPC would be targeted for removal. If other invasive-nonnative plant species listed as having a moderate or limited impact by the Cal-IPC are present, they would be removed if, based on the CDFW’s review, they are negatively affecting habitat and/or restoration efforts at the site” (underline



added). For example, the nonnative eucalyptus grove located in south Area B is proposed to be preserved for its value as monarch butterfly overwintering habitat, rather than removed as part of a broader nonnative removal plan. The proposed Conceptual Habitat Restoration and Adaptive Management Plan (Draft EIS/EIR Appendix B3) also discusses the monitoring and removal of invasive species. The Draft EIS/EIR defines invasive plants in Section 2.2.2.1, *Alternative 1: Ecosystem Restoration*, as “those identified in the California Native Plant Society, Los Angeles – Santa Monica Mountains Chapter handbook entitled Recommended List of Native Plants for Landscaping in the Santa Monica Mountains (CNPS 1994); those species listed by the California Invasive Plant Council on any of its watch lists; and those otherwise identified by CDFW or the U.S. Fish and Wildlife Service (USFWS). Invasive, nonnative plant species often are referred to as weeds.” CDFW acknowledges the comment’s preference to implement a “broader nonnative removal and control plan” than as contemplated in the Draft EIS/EIR; however, CDFW intends to focus resources on addressing those species that would affect habitat or restoration.

- AS5-26 As described in Section 3.4.2.2, the Draft EIS/EIR uses the term “grassland” as a general habitat classification that could include native, nonnative, or a combination of both types of grasses. As shown in Draft EIS/EIR Table 3.4-1, Habitat Categories, Types, Descriptive Characteristics, and Existing Acreage, grassland consists mainly of annual grassland consisting of *Brome* spp., *Avena* spp., *Festuca perennis* located in Areas A, B, and C. Since the majority of the existing grasslands in the Ballona Wetlands consist of nonnative annual grasses, the use of the generic term grassland refers to nonnative grassland, which is why Draft EIS/EIR Section 2.2.2.5, *Alternative 1: Implementation and Restoration Process*, under the heading “Revegetation of Graded and Disturbed Areas” and the subheading “Upland Areas,” states that grasslands will be planted with native species. This section specifies that “[u]pland grassland habitat also would be established in appropriate locations following invasive nonnative plant species removal. Target native grasslands species include California barley (*Hordeum brachyantherum* ssp. *californicum*), purple needlegrass (*Stipa pulchra*), and alkali ryegrass (*Elymus triticoides*). In addition, as stated in the Conceptual Habitat Restoration and Adaptive Management Plan (Draft EIS/EIR Appendix B3) in Section 3.1.7, *Upland Scrub and Grassland*, “[t]arget vegetation includes grasslands dominated by species such as California barley (*Hordeum brachyantherum* ssp. *californicum*), purple needlegrass (*Stipa [Nassella] pulchra*), saltgrass, and alkali ryegrass (*Elymus triticoides*) and scrub dominated by species such as coyote brush, California sagebrush (*Artemisia californica*), mugwort (*Artemisia douglasiana*), big saltbush, lemonade berry (*Rhus integrifolia*), and seacliff buckwheat (*Eriogonum parvifolium*). Additional species will be included in both upland habitat types to increase overall native plant diversity. It should be expected that non-native annual grasses will also form a major component of both grassland and scrub habitats given their prevalence in the seed bank.”



Draft EIS/EIR Appendix B3, Section 3.2, *Biodiversity of the EIS/EIR*, discusses “Upland Habitats” and provides, “[n]ative grassland habitat would be created from disturbed upland habitat through the removal of exotics and planting with a variety of native grasses and annual forbs. Examples include purple needlegrass (*Nassella pulchra*), nodding needlegrass (*N. cernua*), bluegrass (native *Poa* spp.) goldenstar (*Bloomeria* spp.), brodiaea (*Brodiaea* spp.), clarkia (*Clarkia* spp.) and valley tassels (*Castilleja attenuata*). Populations of these vascular plant species would enhance nesting and foraging habitat for passerine birds such as western meadowlark (*Sturnella neglecta*) and grasshopper sparrow (*Ammodramus savannarum*), and also wading birds such as killdeer (*Charadrius vociferous*) and owls, including burrowing owl (*Athene cunicularia*). Grasslands are important foraging grounds for raptors including red-tailed hawk (*Buteo jamaicensis*) and white-tailed kite (*Elanus leucurus*). Like coastal sage scrub, this upland habitat would increase the diversity of flowering plants which, in turn, would support a variety of insects.”

Where the Draft EIS/EIR discusses existing grasslands, it refers to predominately non-native grasses and where it discusses restoration of grasslands, it means restoration with native grass and forb species.

- AS5-27 As described under Draft EIS/EIR Impact 1-BIO-3a, the CRAM data collected for the Ballona Reserve serves as a baseline pre-restoration assessment of the condition of the Project Site. The performance criteria described in Draft EIS/EIR Section 2.2.2.6, *Alternative 1: Monitoring and Adaptive Management*, “are based on the primary ecological drivers of habitat development and function (e.g., frequency of tidal inundation for salt pan habitat), the characteristic expression of such ecological drivers (e.g., lack of vegetation for salt pan habitat), and the primary values of the habitat (e.g., bird foraging in salt pan habitat).” Since the environmental baseline for comparison of impacts to biological resources is the time the NOP was published, comparing post-restoration conditions to baseline conditions is reasonable and serves the purpose for environmental review under CEQA. As described in Draft EIS/EIR Section 2.2.2.6 under the subheading “Reporting,” the extent (and conversion) of each habitat would be tracked, mapped, and quantified as the restoration evolves during the 10-year monitoring period as part of the reporting requirement included in the final Habitat and Restoration and Monitoring Plan. The use of order richness for macroinvertebrates to evaluate diversity would include collecting data on the type, number and distribution of species present to gain insight to the relative abundance and locations of macroinvertebrates. The order richness would then be compared to baseline conditions to evaluate performance criteria for invertebrates. Because the Draft EIS/EIR predicts year 8-10 conditions will be greater than pre-restoration levels, CDFW has modified the language to reflect that in the tables for criteria related to fish, birds, and invertebrates.

Regarding criteria for nonnative plants, invasive nonnative species with a Cal-IPC rating of “high” or “moderate” are focused on since they occur under baseline conditions in the Project Site and are known to create the most immediate and



significant impact to successful restoration efforts. Moreover, if the 50 percent targeted vegetative cover by wetland-adapted species consists of all nonnatives for seasonal wetlands, the performance criteria would not be reached and adaptive measures would need to be implemented because all nonnative vegetation would have little to no habitat value for native animals at the Ballona Reserve.

The suggestion that restoration at the Ballona Reserve should use performance criteria similar to the criteria used for the San Dieguito restoration is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. However, the comment provides no evidence that the performance criteria that are proposed are not adequate. Absent such evidence, the Draft EIS/EIR has not been revised to reflect the Commission's preference.

- AS5-28 The comment refers to Draft EIS/EIR Tables 2-3, 2-22, and 2-16; however, CDFW believes the third table the comment is referring to is 2-26, not 2-16. Draft EIS/EIR Tables 2-3, 2-22, and 2-26, each regarding post-restoration habitats and acreages, have been clarified by the notation that the totals for "upland" and "developed" include acreage on the SoCalGas Property. Regarding the footnotes in Tables 2-22 and 2-26, the text of footnote 2 is replaced by the text of footnote 3.
- AS5-29 The preference that soil not be stockpiled or placed permanently in wetlands is acknowledged. Stockpiled material under the Project would be temporarily placed in East Area B; however, it would be at the western end, which is not in wetlands. Fill material under Alternative 2 would be permanently placed in East Area B and in wetlands to allow transitional sloping of habitat down to marsh and promote reuse of material on-site. Regarding the placement of fill in East Area B fill for purposes of restoration, see Response AS5-18. Regarding the placement of fill in Area C for restoration, see Response AS5-19. See also Response AS5-45.
- AS5-30 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.4), which addresses multiple comments regarding parking facilities within the Ballona Reserve.
- AS5-31 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.3), which responds to multiple comments received regarding the SoCalGas wells.
- AS5-32 The reference for this observation is Johnston et al. 2012. Draft EIS/EIR Appendix D provides a discussion of the 2012 Johnston et. al. survey locations and shows the central Area B description to correspond to herpetofauna array station B1 in Figure D8-3, located to the southeast of the Culver Boulevard and Jefferson Boulevard intersection.
- AS5-33 The methodology for estimating potential habitat for these species is explained in Draft EIS/EIR Section 3.4.2.2 and is based primarily on habitat requirements and factors to identify areas, in CDFW's estimation, that would be suitable for these species based on the best available information. Draft EIS/EIR Figures 3.4-7 and 3.4-9 are intended to provide estimations of habitat areas within which species could be



encountered during their entire life cycles, including foraging, nesting, wintering, refuge, etc. Some of the areas mapped could have more suitable habitat than others depending on the season and species life cycle.

Regarding the habitat preferences for the species mentioned in the comment, the Draft EIS/EIR in Table 3.4-4, Special-Status Wildlife Species Known to Occur or Potentially Occurring with the Project Site, describes that the habitat requirements for western tidal flat tiger beetle and for western s-banded tiger beetle consists of “salty coastal habitats including salt marshes, tidal flats, and beaches” while habitat requirements for Wandering skipper consist of “host plant, salt grass.” Draft EIS/EIR Section 3.4.2.2, *Environmental Setting*, under the heading “Special Status Wildlife Species” and the subheading “Special-Status Invertebrates” also describes habitat for the western tidal flat beetle to include estuaries and mudflats along the coast of Southern California and notes the species is generally is found on dark-colored mud in the lower zone and occasionally found on dry saline flats of estuaries based on observations within the Ballona Reserve and includes a 2014 reference to CDFW. The section described above also describes habitat for the western s-banded tiger beetle to include areas underlain by sandy soils, which includes areas mapped as dune or non-native dune based on past observation of the species at the Ballona Reserve and includes a 2014 reference to The Bay Foundation. However, as noted in this comment, the western tidal flat tiger beetle can also occupy “open, wet, saline soil with sparse vegetation” and the western s-banded tiger beetle can occupy “tidal salt flat, tidal mud flats, and muddy tidal areas within pickleweed.”

- AS5-34 The figures on occupied and suitable habitat in Draft EIS/EIR Section 3.4.2.2, *Environmental Setting*, show existing or historic “occupied areas” with “potentially suitable areas” to provide context and show where the suitable habitat occurs relative to occupied habitat. In this case, potentially occupied habitat applies to historic observations that have not been recently confirmed, whereas occupied habitat applies to recent confirmed occupation and potentially suitable applies to areas with no current or historic observations but has the presence of suitable conditions/habitat for various life cycle stages for the species, including foraging. For example, Draft EIS/EIR Figure 3.4-5, El Segundo Blue Butterfly Habitat, shows occupied habitat, approximate extent of habitat (i.e., suitable habitat) and coast buckwheat populations. Draft EIS/EIR Figure 3.4-7, Wandering Skipper Habitat, shows assumed occupied habitat based on past observations and potentially suitable habitat. Draft EIS/EIR Figure 3.4-8 shows the areas potentially occupied by western S-banded tiger beetle because it has not been observed since the mid-1990s, which includes areas mapped as dune or non-native dune. Draft EIS/EIR Figure 3.4-9 shows potentially occupied habitat for western tidal flat tiger beetle since no specific records in the Ballona Reserve have been recorded since the mid-1990s.
- AS5-35 Draft EIS/EIR Section 3.4.2.2, *Environmental Setting*, under the heading “Special Status Wildlife Species” and the subheading “Special-Status Invertebrates” says, “[p]otentially suitable habitat was defined to include areas underlain by sandy soils,



which includes areas mapped as “dune” or “non-native dune” for Western S-banded tiger beetle. And per Nagano et al. 1981 and Mattoni 1991, this species can also occupy tidal salt flat, tidal mud flats, and muddy tidal areas within pickleweed.

- AS5-36 Draft EIS/EIR Figure 3.4-8, Habitat Potentially Occupied by Special-Status Terrestrial Invertebrates Associated with Dunes, depicts the distribution of potentially suitable habitat for the western s-banded tiger beetle. Although it has not been observed on-site (Area A and Area B) since the mid-1990s, it still has the potential to occur based on historic observations so a good faith effort to identify areas potentially occupied by western mudflat tiger beetle was included in the Draft EIS/EIR. The reference to the western s-banded tiger beetle in Draft EIS/EIR Table 3.4-4, Special-status Wildlife Species Known to Occur or Potentially Occurring within the Project Site, has been revised to update the potential for this species to occur from “low” to “moderate” based on historic occurrences and Figure 3.4-8. The proposed revision is as follows:

~~Low~~ Moderate Potential. Salty coastal habitats including salt marshes, tidal flats, beaches.

This change from “low” to “moderate” does not alter the analysis or conclusion in Impact 1-BIO-1e that the Project would result in a less-than-significant impact with implementation of Project Design Features BIO-1 (WEAP), BIO-3 (Habitat Restoration and Monitoring Plan), BIO-4 (Water Pollution and Erosion Control Plan); and with the implementation of Mitigation Measures BIO-1b-ii (Biological Monitoring) and BIO-1b-iii (Noxious Weed Control Plan).

- AS5-37 Draft EIS/EIR Figure 3.4-9, Habitat Potentially Occupied by Special-Status Terrestrial Invertebrates Associated with Salt Marsh, depicts the distribution of potentially suitable habitat for the western tidal flat tiger beetle. Although it has not been observed on-site (West Area B) since the mid-1990s, it still has the potential to occur based on historic observations, and a good faith effort to identify areas potentially occupied by western tidal flat tiger beetle was included in the Draft EIS/EIR. The Final EIR retains the potential for this species to occur as “low” based on historic occurrences and Figure 3.4-9. Western tidal flat tiger beetle is discussed in Impact 1BIO-1e of the Draft EIS/EIR, with a conclusion that impacts would be less than significant with implementation of Project Design Features BIO-1 (WEAP), BIO-3 (Habitat Restoration and Monitoring Plan), BIO-4 (Water Pollution and Erosion Control Plan); and with the implementation of Mitigation Measures BIO-1b-ii (Biological Monitoring) and BIO-1b-iii (Noxious Weed Control Plan).

- AS5-38 In response to this comment, the title of Draft EIS/EIR Figure 3.4-13 has been changed to be consistent with the legend. It is now titled “Potential Foraging Habitat for Coastal California Gnatcatcher.”

- AS5-39 Project Design Feature BIO-3, Habitat Restoration and Monitoring Plan, does more than merely evaluate progress towards restoration goals and inform the need for adaptive management as the commenter’s quoted text seems to imply. As stated in





Draft EIS/EIR Table 2-2 and described in Section 2.2.2.6, *Alternative 1: Monitoring and Adaptive Management*, monitoring provides a clear picture of habitat development within the Ballona Reserve. However, BIO-3 does not stop at monitoring. The data developed during monitoring would be assessed in light of performance criteria, and remedial adaptive management would be implemented if there is a significant deviation from or lack of progress toward achieving the applicable performance criteria. The Habitat Restoration and Monitoring Plan is to be built directly from the guidance developed in the Conceptual Habitat Restoration and Adaptive Management Plan (Conceptual Plan) which is provided in Draft EIS/EIR Appendix B3. The Conceptual Plan contains more detail on the types of corrective actions that could be implemented depending on the reasons why performance criteria are not being met. For example, with regards to tidal marsh, potential corrective actions may include additional planting of tidal marsh species to increase the rate of vegetation establishment, the introduction of soil amendments to alter soil physical or chemical properties, or the addition of temporary irrigation or modifications to the tidal regime to improve plant growth or hinder the establishment of invasive species.

BIO-3 also requires preparing a Post-restoration Management Plan (PMP) as a chapter, appendix, or other part of the Habitat Restoration and Monitoring Plan. The PMP will contain procedures for avoidance and minimization of adverse impacts to sensitive biological resources during post-restoration operations and maintenance activities, to further progress toward meeting the success criteria. BIO-3 goes on to detail information in the PMP to avoid and minimize impacts. Ultimately, because monitoring and adaptive management is an important component of any large-scale restoration, BIO-3 is included as part of the Project's design.

- AS5-40 The 13.5 acres of lost habitat that would occur during Alternative 1, Phase 1, was calculated by overlaying Draft EIS/EIR Figure 3.4-7, Wandering Skipper Habitat, Figure 3.4-8, Habitat Potentially Occupied by Special-Status Terrestrial Invertebrates Associated with Dunes, and Figure 3.4-9, Habitat Potentially Occupied by Special-Status Terrestrial Invertebrates Associated with Salt Marsh, with the footprint of Phase 1 over one of the Project shown in Draft EIS/EIR Figure 2-5, Alternative 1, Phase 1: Preliminary Grading Plan. As described under Impact 1-BIO-1e, “[a]n estimated 13.5 acres of potentially suitable habitat would be permanently lost due to conversion from wetland to upland habitat; however, existing habitat in Areas A and C is considered to be only marginally suitable due to general lack of intact salt marsh habitat. During Phase 1, restoration-related activities in wetland habitats in Areas A and C could result in direct, significant impacts to salt marsh-associated invertebrates due to trampling or crushing from heavy equipment, vehicles, foot traffic, and modifications to existing hydrological conditions.” (underline added) The cause of impacts would be similar under Alternative 1, Phase 2. As analyzed in Impact 1-BIO-1e, impacts would be less than significant with the application of Project Design Features BIO-1 (Worker Environment Awareness Program), BIO-3 (Habitat Restoration and Monitoring Plan), BIO-4 (Water Pollution and Erosion Control Plan); and with the implementation of Mitigation Measures BIO-1b-ii (Biological



- Monitoring) and BIO-1b-iii (Noxious Weed Control Plan). And as the comment points out, Alternative 1 Phase 1 would result in the establishment of 114.7 acres of fully tidal salt marsh as compared to existing conditions. Alternative 1 Phase 2 would increase the amount of fully tidal salt marsh to 153.4 acres as compared to existing conditions. CDFW considers this increase in habitat a beneficial effect.
- AS5-41 See General Response 5, *Biological Resources*, regarding Belding's savannah sparrow (Final EIR Section 2.2.5.4), which addresses multiple comments received about this species.
- AS5-42 Final EIS/EIR Table 3.4-13, Summary of Changes in the Extent of Southern California Salt Marsh Shrew and South Coast Marsh Vole Habitat as a Result of Alternative 1, estimates that 17.9 acres of impact would occur from Phase 2, which includes impacts from tidal inundation. A typographical error under the Phase 2 Indirect Impacts has been corrected to reflect that habitat would increase for these species, as described in Table 3.4-13.
- AS5-43 Discussions of southern dune scrub, as they appeared on pages 3.4-94 and 3.4-96 of the Draft EIS/EIR have been corrected, consistent with Table 3.4-18, to state that the Project would result in an adverse indirect impact to 0.1 acre of southern dune scrub in West Area B as a result of Alternative 1 Phase 2, thus preserving 4.1 acres of the 4.2 acres present under baseline conditions. With these revisions, the Final EIR's discussions of potential impacts to southern dune scrub are consistent. These revisions do not affect the Draft EIS/EIR's conclusion that, "[s]outhern dune scrub habitat could be indirectly impacted by work activities due to sediment, dust, trampling, and increased human activity related to removal of non-native, invasive plant species. Following the application of Project Design Features BIO-1 (WEAP) and BIO-2 (Limit of Disturbance), remaining potentially significant indirect impacts could be reduced to a less-than-significant level through the implementation of Mitigation Measures BIO-1b-ii (Biological Monitoring) and BIO-1b-iii (Noxious Weed Control Plan)."
- AS5-44 See Response AS5-2 regarding the Draft EIS/EIR's identification of the portion of the Project Site that is subject to the Coastal Commission's jurisdiction. See also Response AS5-5, which explains that information on estimated Coastal Commission wetland areas was provided in Draft EIS/EIR Table 3.4-5, Wetland and Nonwetland Potential Jurisdictional Areas, and in Figure 3.4-18, Coastal Commission Jurisdiction. Figure 3.4-19 is intended to inform the Corps and other reviewers of the nature and extent of the anticipated impacts of Alternative 1 to Section 404 Waters of the U.S.; Figure 3.4-20 shows the same information for Alternative 2, and Figure 3.4-21 shows the same information for Alternative 3.
- AS5-45 The indication in this comment of the likelihood that the proposed fill of wetlands would not likely be approved by the Coastal Commission despite Alternative 2 resulting in a net increase in Coastal Act defined wetlands is noted and is now part of



the record of information that will be considered as part of CDFW’s decision-making process. CDFW also notes that the comment applies to the placement of fill in the eastern portion of East Area B as analyzed under Alternative 2. In the event CDFW approves Alternative 2, during the application process for a Coastal Development Permit, the design could be revised to avoid placement of fill into a portion of East Area B. In Section 30001.5(a) of the California Coastal Act (Public Resources Code §30000 et seq.), the Legislature declared that “a basic goal of the State for the coastal zone is to “[p]rotect, maintain, and, where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources.” A further State goal for the coastal zone is to “[m]aximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resources conservation principles ...” (Public Resources Code §30001.5(c)).

In bestowing the designation of “ecological reserve,” the California State Legislature expressly recognizes the Ballona Wetlands Ecological Reserve as a place for the protection of threatened or endangered native plants, wildlife, or aquatic organisms or specialized habitat types, both terrestrial and non-marine aquatic, or large heterogeneous natural gene pools for the future use of mankind (Fish & Game Code §1580). As explained in Draft EIS/EIR Section 1.2.2, *The Project: Restoration of the Ballona Reserve*, the USEPA has determined that all wetland habitats within the Ballona Reserve are impaired, and others have identified a portion of the Ballona Reserve as among the State’s most degraded wetlands. Invasive nonnative plants are crowding out native plants faster than the current by-hand restoration efforts can offset, with the resulting nonnative areas providing little support to local wildlife. This Project is designed to restore, enhance, and create estuarine and associated habitats that support a natural range of habitat formations and functions to create a regionally important wetland area (Draft EIS/EIR Section 1.1.2). As noted during litigation of the proposed restoration of the Batiquitos Lagoon in northern San Diego County, “This proposal is not a housing development. It is not a ship channel. It is not an above ground nuclear weapon test. It is a revival of an intermittently failing biological system by a physical modification.” *Sierra Club and Buena Vista Audubon Society v. California Coastal Commission* (1993) WL 13035223 (Cal.), 2-3. The same can be said of CDFW’s proposed restoration of the Ballona Wetlands.

- AS5-46 As noted in the comment, the Draft EIS/EIR analyzes potential impacts of the proposed parking structure on aesthetic and visual resources in Section 3.2.6, *Direct and Indirect Impacts*, before concluding that the construction of the garage would not substantially alter the visual quality or character of the larger Project Site. The commenter’s preference that additional visual analysis (including additional photo simulations from various vantage points) is acknowledged and is now part of the record of information that will be considered as part of CDFW’s decision-making processes for the project. However, because no evidence or other information is provided to indicate that the existing analysis is deficient in any way, CDFW is not preparing additional renderings.



- AS5-47 Contrary to this comment, Draft EIS/EIR Section 3.2.6.1, *Alternative 1: Full Tidal Restoration/Proposed Action*, specifically considers potential visual quality impacts of the whole of the Project, including from the new walking and biking trails (and associated interpretive features and signage) that would be included as part of the public access features. The analysis concludes that impacts would be less than significant. Draft EIS/EIR Section 2.2.2.3, *Alternative 1: Public Access and Visitor Facilities*, under the heading “Interpretive Features and Signage” describes the locations and specifics for overlooks, gateways and educational signage. The Draft EIS/EIR further provides several visual depictions of interpretative features and signage that would be installed as part of the Project. See Figure 2-3, *Alternative 1, Phase 2: Public Access Plan*, and Figure 2-23, *Alternative 1: Public Access Plan Detail*, which show the locations of public access features including entry monuments, gateways and overlooks that would include interpretive features, signage, and art installations. See also Figure 2-19, *Typical Primary Entrance Visualization*, Figure 2-24, *Typical Observation Deck*, Figure 2-25, *Typical Elevated Pedestrian Boardwalk*, Figure 2-26, *Typical Trail at Levees’ Edge*, Figure 2-27, *Typical Pedestrian & Bike Trail*, Figure 2-28, *Typical Gateway Element Visualization*, and Figure 2-29, *Typical Key Monument Visualization*. All interpretive features and signage would be designed and located consistent with required approvals.
- AS5-48 The commenter’s agreement that the mitigation measures for cultural and paleontological resources described in Draft EIS/EIR Section 3.5, *Cultural and Paleontological Resources*, are adequate to reduce the potential significance of the proposed restoration is acknowledged and is now part of the record of information that will be considered as part of CDFW’s decision-making process.
- AS5-49 This commenter’s agreement that the mitigation measures for geology, seismicity, and soils described in Draft EIS/EIR Section 3.6, *Geology, Seismicity, and Soils*, are adequate to avoid or reduce the potential significance of the proposed restoration is acknowledged and is now part of the record of information that will be considered as part of CDFW’s decision-making process.
- AS5-50 The commenter’s summary of the conclusions reached in Draft EIS/EIR Section 3.7, *Greenhouse Gas Emissions/Climate Change*, is acknowledged and is now part of the record of information that will be considered as part of CDFW’s decision-making process.
- AS5-51 Initial conclusions as to the potential suitability of onsite “spoils” for offsite disposal were determined on the basis of results of studies conducted in 2012 of samples taken from limited areas within the Ballona Reserve. Figure 1 in the 2014 Greenstein and Bay study shows where the 2012 samples were taken. The preliminary conclusions demonstrated sufficient potential suitability for the inclusion of offsite disposal as one among multiple potential approaches to handling the excavated soils from restoration activities at the Ballona Reserve, including use for restoration, off-site disposal at



landfills and disposal in ocean waters at site designated by the USEPA such as site LA-2 off San Pedro and/or LA-3 off Newport Beach. See Draft EIS/EIR Section 2.2.2.5, *Alternative 1: Implementation and Restoration Process*. As described in Section 3.9.5.1, review of these testing results and approaches were discussed by the interagency Southern California Dredge Material Management Team (DMMT) in January 2015.

As disclosed in Draft EIS/EIR Table 1-1, Summary of Required Permits and Approvals, receipt of written concurrence as to the suitability of material for ocean disposal would be required from the USEPA as part of the Marine Protection, Research, and Sanctuaries Act Section 103 permit process. The USEPA has indicated in Comment AF2-6 that the agency would concur as to the suitability of ocean disposal only of non-toxic sediments after consideration of alternatives to ocean disposal, including beneficial reuse of sediments to the maximum extent practicable. The Section 103 permit application process would entail quantification of the volume of material proposed for offsite disposal and inclusion of a Sampling Analysis Plan (SAP) to be filed for consideration by the Corps, in consultation with the Los Angeles Regional Contaminated Sediments Task Force (CSTF) and the Southern California Dredged Material Management Team (SC-DMMT). See, generally, Draft EIS/EIR Mitigation Measure WQ-1a-ii in Section 3.9, *Hydrology and Water Quality*, which describes the steps needed for ocean disposal, including preparing a SAP. In summary, as described in Section 3.9.5.1, a SAP, its associated results report, and final suitability determinations by the resource agencies, would occur as part of the permitting processes.

- AS5-52 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.3), regarding the existing location and proposed removal of SoCalGas Company infrastructure from within the Ballona Reserve. CDFW has not provided a map of all SoCalGas wells and facilities in the vicinity of the Project Site that would not be affected by the Project because it is unclear how that information would inform the analysis of environmental impacts. Nevertheless, the request for such a map will be part of the record of information considered by CDFW.
- AS5-53 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.3), regarding SoCalGas Company infrastructure in the Ballona Reserve.
- AS5-54 Because the screening levels and comparisons of sampling data relative to those levels can be accomplished based on the presentation of information as presented in the Draft EIS/EIR, the requested reorganization has not occurred. Moving the information from one location in the document to a different location in the same document would not affect the conclusions reached as to beneficial effects or adverse impacts of the proposed activities.
- AS5-55 See Response AS5-51 regarding the potential for offsite disposal.



- AS5-56 The Commenter's preference as to what information should be considered by the Corps and USEPA is acknowledged and will be considered in the preparation of the SAP as part of the Section 103 permit process. See Response AS5-51 regarding prerequisites for any Project-related offsite disposal.
- AS5-57 Draft EIS/EIR Section 2.2.2.5, *Alternative 1: Implementation and Restoration Process*, evaluates several approaches to handling the excavated soils from restoration activities at the Ballona Reserve, including use for restoration, off-site disposal at landfills and off-shore disposal. See Response AS5-7 regarding soil disposal. The precise amount of uncontaminated groundwater, or quantity of uncontaminated soil not used as wetlands surface, wetland foundation, or upland material will not be known until restoration and further testing begins. As described in Draft EIS/EIR Section 3.9.6, any disposal of uncontaminated groundwater would be regulated by the 401 certification required by RWQCB for the project. Options that typically are available for uncontaminated groundwater disposal include surface release into nearby watercourses (e.g., Ballona Creek), on-site recharge trenches or infiltration/ evaporation ponds, sewer disposal, disposal via tanker to off-site facility, and beneficial reuse for on-site irrigation for revegetation efforts.
- AS5-58 The stated opinion as to the compatibility of a meander bend with a full-tidal inundation setting and the potential inclusion of a geomorphic analysis in the Draft EIS/EIR of the functionality of the design options are acknowledged and will be part of the record of information considered by CDFW. As discussed in Draft EIS/EIR Section 2.2.2.1, "Once constructed, the majority of the partially earthen channel meander-shaped bends would only be partially confined to a rigid alignment. Some gradual channel migration and localized erosion and sedimentation would occur. The overall channel location would be guided by the sloping restored marsh plain and adjacent upland habitats. The channel alignment would be fixed only where required to protect adjacent infrastructure (Figure 2-8, Alternative 1: Typical Channel Sections; see the "Erosion Control Features" description and Figure 2-16, Alternative 1, Phase 1: Perimeter Levee Armoring Plan, and Figure 2-17, Alternative 1, Phase 2: Perimeter Levee Armoring Plan, in Section 2.2.1.2, *Flood Risk and Stormwater Management*). In these locations, the restoration proposes some setback bank armoring (buried rock protection for bank stabilization; see Figure 2-7, Alternative 1, Phase 1: Levee Sections, and Section 2.2.2.2, *Alternative 1: Flood Risk and Stormwater Management*). The restored Ballona Creek banks and floodplain would experience some level of periodic erosion and deposition, which are typical for natural river and estuarine environments. The goal is to accommodate and support this level of natural channel and floodplain dynamics, while protecting developed areas outside the Project Site. While these active processes may require periodic maintenance and adaptive management (e.g., removal of any major channel blockages such as sediment or debris), they also would benefit ecological processes such as natural disturbance regimes."

See Draft EIS/EIR Section 3.9.5.3, *Sediment Dynamics and Sediment Budget Analysis*, which describes the sediment dynamics analysis, including sediment





transport modeling and geomorphic analyses, and how the results were used to build a sediment budget. Section 3.9.5.3, under the subheading “Geomorphic Analyses,” provides a geomorphic analysis to assess how the site would develop and evolve over time in response to the Project and physical processes. Flood events, tidal action, and coastal sediment transport processes were examined as part of this analysis. Draft EIS/EIR Figure 3.9-8, Sediment Budget Under Alternative 1 Project Conditions [Average Year], shows the sediment budgets for existing conditions and with the Project. Draft EIS/EIR Appendix F, which presents technical information about Hydrology and Water Quality, includes a 2013 Hydraulics and Hydrology Report and a 2015 Hydraulic Modeling Addendum that evaluate and compare potential flood impacts and sedimentation scenarios (including equilibrium tidal channel) from the Project as well as Alternative 2 and Alternative 3. The 2013 Report includes a geomorphic analyses of Ballona Creek, including hydraulic geometry/equilibrium, deposition, wetland accretion, and sediment transport. The analysis provides some indications on how the site will likely evolve in response to the restoration, as well as future sea-level rise and concludes that “[t]he preliminary understanding of site evolution discussed below indicates that the preliminary restoration design will support the desired habitat and flood management functions.”

- AS5-59 See Response AL9-5 regarding TMDL load allocations. For a comparison of the benefits and impacts of the alternatives as a whole, see the summary provided in Draft EIS/EIR Table ES-3, Summary of Environmental Consequences; Draft EIS/EIR Section 2.1.1, which discusses NEPA and Clean Water Act Section 404(b)(1) requirements for the evaluation of alternatives, including consideration of a Least Environmentally Damaging Practicable Alternative, or “LEDPA”; and Draft EIS/EIR Section 4.4, General Response 3 (Final EIR Section 2.2.3.6), and Final EIR Section 3.2.6, which discuss the Environmentally Superior Alternative for purposes of CEQA.
- AS5-60 The commenter’s suggestion that the environmentally superior alternative could be identified based on a water quality perspective is acknowledged and is part of the record of information that will be considered as part of CDFW’s decision-making process. However, as discussed in Draft EIS/EIR Section 4.4 and Final EIR Section 3.2.6, CDFW, as the Lead Agency for purposes of CEQA, instead has elected to draw its conclusion based on a more comprehensive (multi-resource) evaluation of impacts and benefits, with a preference for long-term restoration benefits that would outweigh short-term implementation-related impacts. CDFW understands that the Corps will determine a least environmentally damaging practicable alternative (LEDPA) in the Final EIS or Record of Decision. The Corps will be the ultimate decision-maker for all NEPA-specific aspects of the analysis.

Information about the tidal action/prisms and changes that would occur under the Project and Alternatives 2 and 3 is provided in Draft EIS/EIR Section 3.9, *Hydrology and Water Quality*. The requested addition of a table that summarizes the tidal prism volume for each alternative and Phase is acknowledged; however, CDFW has not



- added such a table to the Final EIR because the information necessary to evaluate the alternatives in this respect is provided in the text and because reorganizing the information for a tabular instead of textual presentation would not alter the conclusions reached.
- AS5-61 The suggestion that the Draft EIS/EIR should include inundation maps that show water depth-contours for each alternative and phase is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. However, without more information as to whether the commenter believes there is a deficiency in the EIR, or how the requested information would be used, the requested change has not been made.
- AS5-62 The Draft EIS/EIR discusses sediment excavation/removal, disposal, best management practices and monitoring in several locations. See, e.g., project feature BIO-4 (Water Pollution and Erosion Control Plan) in Draft EIS/EIR Section 2.2.1.8 and in Draft EIS/EIR Section 3.9.6.1, *Direct and Indirect Impacts*; see also Mitigation Measures WQ-1a-i, Monitoring and Adaptive Management Plan (MAMP), and WQ-1a-ii, Sampling and Analysis Plan (SAP), in Impact 1-WQ-3a.

For sediment accumulating at the entrance to Marina del Rey, Draft EIS/EIR Section 3.9.6.1, *Hydrology and Water Quality*, states in the context of 1-WQ-3a that approximately 5,000 cubic yards (cy) of sediment is deposited in the Marina del Rey harbor southern entrance channel from the mouth of Ballona Creek. Littoral sand transport (sand transport in the intertidal zone of the beach) deposits about 48,000 cy/year. Under the Project, there is an estimated increase of 200-900 cy of sediment deposition from the mouth of Ballona Creek once every 1 to 5 years for small storm events. Based on modeling, the Project would not increase littoral sand transport at the mouth of Ballona Creek (see Draft EIS/EIR Figures 3.9-7 and 3.9-8). The increase in sediment deposition estimated for small storm events represents up to a 2 percent increase in the average annual deposition of 55,000 cy in the entrance to the marina. Estimated increases for large, infrequent storm events are greater but would occur infrequently, every 10 to 100 years. This amount from large, infrequent storm events is an increase of 20,000 to 40,000 cy per event and represents approximately an 80 percent increase in deposition from existing conditions. This increase in deposition would be addressed by the existing dredge operations (300,000 to 800,000 cy every 5 to 8 years) along with implementation of Mitigation Measure 1-WQ-1a. Under 1-WQ-1a, sediment deposition at the entrance of Marina del Rey would occur and if deposition increased substantially, CDFW would coordinate with the Corps to develop a mutually agreed upon course of action. That action could include participating in the current dredging activities. Until it is determined that coordination between CDFW and the Corps is required, it cannot be known with sufficient certainty to inform the EIR what quantity of sediment CDFW should be responsible for, when that would occur, the most appropriate means of disposal, and any necessary permits or approvals. Ultimately, under Mitigation Measure 1-WQ-1a, any



increase in deposition would be monitored and addressed to maintain boat access to the Marina consistent with historic dredging efforts.

Regarding impacts related to removing sediment that accumulates in the Project Site post-restoration, in the discussion of impacts to biological resources in Draft EIS/EIR Section 3.4.6.1, *Alternative 1: Full Tidal Restoration/Proposed Action*, under the heading “Restoration and subheading Phases 1 and 2 Direct Impacts,” the Project would deliver some sediment-laden runoff and associated constituents to Ballona Creek. Constituents associated with these sediments could then settle out into the channel and marsh at concentrations that may result in impairment based on Sediment Quality Objectives for biological resources/beneficial uses. Mitigation measures identified in Section 3.9 (including Mitigation Measures WQ-1a-i and WQ-1a-ii) were developed to ensure additional sediment sampling is conducted prior to construction activities. These efforts would supplement implementation of the Water Pollution and Erosion Control Plan pursuant to Project Design Feature BIO-4 to minimize sedimentation. For example, a 500-foot floating boom and turbidity curtain would be installed before construction activities begin, floating debris upstream of the boom would be removed, sediment mats would be used downstream of the work area, geotextile roads/mats would be used, and gravel would be applied at construction entrances. See also Responses AL7-4, AL7-8, and AF1-21 related to post-restoration operations and maintenance activities (including sediment removal) and environmental analysis of such activities.

Regarding sediment disposal, as mentioned in Draft EIS/EIR Appendix B5, *Preliminary Operations and Maintenance Plan*, “material either would be beneficially used within the wetlands (e.g., to raise sub-tidal and intertidal mudflat areas and create additional vegetated wetland habitat) or would be disposed of off-site. Land and marine-based off-haul options would be similar to options described for Project construction. However, soil excavation and disposal volumes for maintenance activities would be less than Project construction volumes. Any off-haul activities for maintenance therefore would have a shorter duration than for construction activities. Sediment testing would be performed prior to channel maintenance and any soil requiring special management measures would be handled and disposed of according to regulations.” It is too speculative to identify the exact disposal method at this time due to a variety of unknowns including the amount of soil to be disposed of, the conditions of the restored wetlands, and available funding. See also Responses AS5-51 and AS5-57 regarding soil disposal options.

- AS5-63 See General Response 6, *Hydrology and Water Quality* (Final EIR Section 2.2.6.1), for more information about the relationship between the proposed restoration and TMDLs.
- AS5-64 The suggestion in the comment that the Draft EIS/EIR should discuss elevated nutrient levels that occur in the Freshwater Marsh under existing (baseline) conditions and assess whether or not the Project would be impacted by Freshwater Marsh



overflow is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. However, CEQA does not require a lead agency to analyze the impacts of the environment on a project. The Project purpose includes supporting estuarine and associated habitats through measures such as improving tidal circulation into the wetlands to enlarge the amount of area that is tidally inundated, increasing tidal prism and excursion, lowering residence time of water, ensuring a more natural salinity gradient, and creating dynamic hydrologic interactions (see Draft EIS/EIR Section ES.3.2).

Specifics of the Corps' overall project purpose are outside CDFW's purview. Nonetheless, CDFW anticipates that the Corps will address questions relating to purpose and other NEPA-specific comments in a Final EIS. With that understanding, CDFW provides the following preliminary response for informational purposes. The overall project purpose pursuant to NEPA purpose includes increasing tidal influence to achieve predominantly estuarine wetland conditions. For purposes of NEPA, the Draft EIS/EIR acknowledged in Section ES.5, *Areas of Potential Controversy Known to the Lead Agencies*, that water quality concerns include algae blooms. The Corps will be the ultimate decision-maker for all NEPA-specific aspects of the analysis.

The Restoration Monitoring and Management Plan (BIO-3) included as part of the Project would include biological monitoring annually for 10 years post-restoration and would account for evaluating nutrient levels as part of the monitoring at the Ballona Reserve. A conceptual draft Restoration Monitoring and Management Plan is provided in Draft EIS/EIR Appendix B3. Appendix B3 Section 4.2.3 states that the primary ecological factor involved in the development of tidal marsh vegetation is hydrology—regular inundation by tidal waters. Additional factors involved in the establishment of tidal marsh vegetation include sediment characteristics (e.g., soil texture, pH, nutrient levels, organic matter content, soil contaminants, etc.), rates of erosion or sedimentation, and the availability of plant propagules.

AS5-65 This summary of the conclusions reached in the Draft EIS/EIR regarding potential impacts related to noise and vibration is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process.

AS5-66 The commenter's summary of the recreation analysis, including anticipated impacts related to whether rowing competitions could be held or baseball games could be played in the Ballona Reserve, is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. Impacts related to recreation are analyzed in Draft EIS/EIR Section 3.11.6, *Direct and Indirect Impacts*, and Section 3.11.7, *Cumulative Impacts*.

The opinion expressed as to whether others may agree with the thresholds used to determine whether an impact to recreation would be significant for purposes of CEQA also is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. As described in



Section 3.11.6.2 (Alternative 2), “reconstruction of the baseball fields would depend on the availability of external funding and other factors” such that if they are not reconstructed, the Little League groups could reconstruct them if desired using external funding (see Section 2.2.3.3). The comment suggests no alternative threshold that might be considered more agreeable for the CEQA analysis. Accordingly, no change in the thresholds has been made in response to this comment.

Questions about the Corps’ thresholds for determining the significance of Project impacts are outside CDFW’s purview. Nonetheless, CDFW anticipates that the Corps will address them and other NEPA-specific comments in a Final EIS. With that understanding, CDFW provides the following preliminary response for informational purposes. With respect to the NEPA analysis, as stated in Draft EIS/EIR Section 3.11.4, *Thresholds of Significance*, “the Corps has elected to evaluate the context and intensity of potential environmental consequences relative to the criteria identified in CEQA Guidelines Appendix G, Section XV, with an additional consideration by both lead agencies of impacts to existing recreational facilities within the Ballona Reserve. In addition, the analysis considers where improvements of the Project would provide a net benefit relative to the conditions described in Section 3.11.2, Affected Environment.” The Corps will be the ultimate decision-maker for all NEPA-specific aspects of the analysis.

- AS5-67 The suggestions in the comment that bike paths and trails should be restricted to degraded areas or areas already in use, as well as locations that are outside sensitive habitat areas, are acknowledged and are now part of the record of information that will be considered as part of CDFW’s decision-making process. These suggestions are consistent with the Project as well as with Alternatives 2 and 3. See, for example, Draft EIS/EIR Section ES.3.2, *CEQA Project Objectives* (#4 is to “Develop and enhance wildlife dependent uses and secondary compatible on-site public access for recreation and educational activities”). See also Draft EIS/EIR Section 2.1.2, *CEQA Requirements for the Evaluation of Alternatives* (“secondary compatible on-site public access for recreation”), and Section 2.1.3, *Screening Criteria for Alternatives to the Proposed Action* (criterion [c] is whether a potential alternative would meet most of the basic objectives of the Project).

Specifics of the Corps’ purpose and need statement are outside CDFW’s purview. Nonetheless, CDFW anticipates that the Corps will address such questions and other NEPA-specific comments in a Final EIS. With that understanding, CDFW provides the following preliminary response for informational purposes. See Draft EIS/EIR Section ES.3.1, *Purpose and Need under NEPA*, and Section 1.1, *Purpose and Need/Project Objectives* (same); (“The need for the Project under NEPA is to restore coastal aquatic resources to increase available breeding and foraging habitat for wildlife while maintaining flood protection for surrounding communities; and to provide public access for compatible recreational and educational opportunities that are not currently available within the Ballona Reserve”) and Section 2.1.3, *Screening Criteria for Alternatives to the Proposed Action* (criterion [b] is whether a potential



alternative would meet the purpose and need and the overall project purpose). The Corps will be the ultimate decision-maker for all NEPA-specific aspects of the analysis.

- AS5-68 The suggestion that intersection numbers from Draft EIS/EIR Figure 3.12-1 also be included in Table 3.12-2 is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process; however, adding the information in a second location would not contribute any new or different information to the analysis, and would not change the conclusions reached. Therefore, the requested change has not been made.

As described in the Draft EIS/EIR, under Impact 1-TRANS-1a, "with the implementation of Mitigation Measures TRANS-1a and TRANS-1b during the 3- to 4-week period, the construction traffic impacts due to the Lincoln Boulevard bridge construction would be less than significant." Therefore, TRANS-1b does explicitly apply to both and Lincoln Boulevard. In the Draft EIS/EIR, Mitigation Measure TRANS-1b: Restriction of Lane Closures, has been edited as follows to clarify that the mitigation measure does apply to closures along Lincoln Boulevard:

**Mitigation Measure TRANS-1b: Restriction of Lane Closures.** The construction traffic management plan, prepared for Mitigation Measure TRANS-1a, shall stipulate that lane closures on Culver Boulevard and Lincoln Boulevard would be restricted to nighttime hours of 11:00 p.m. to 4:00 a.m.

- AS5-69 As described in Draft EIS/EIR Section 3.12.6, *Direct and Indirect Impacts*, the proposed bridge across Lincoln Boulevard is expected to require only intermittent night-time lane closures on Culver Boulevard and Lincoln Boulevard.
- AS5-70 The comment accurately notes that "Traffic Control and Safety Assurance Plan" was identified as a requirement of Mitigation Measure TRANS-1a in various locations in the Draft EIS/EIR. They included: Table ES-1, Summary of Impacts and Mitigation Measures for Alternative 1; Draft EIS/EIR Section 3.8.6, *Direct and Indirect Impacts relating to Hazards and Hazardous Materials*; and Section 3.14.6, *Direct and Indirect Impacts relating to Environmental Justice*. The comment also accurately notes that the Transportation and Traffic section in Section 3.12 (including Mitigation Measure TRANS-1a itself) identifies the required plan as the "Construction Traffic Management Plan." Instances of "Traffic Control and Safety Assurance Plan" have been revised in the Final EIR for consistency with the Transportation and Traffic section to read "Construction Traffic Management Plan."
- AS5-71 This summary of the impact conclusions in Draft EIS/EIR Section 3.13, *Utilities and Service Systems*, is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process.





- AS5-72 This summary of the impact conclusions in Draft EIS/EIR Section 3.14, *Socioeconomics and Environmental Justice*, is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process.
- AS5-73 This summary of the conclusions of Draft EIS/EIR Chapter 4, *Other Considerations*, is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process.
- AS5-74 This comment accurately summarized the conclusions of Draft EIS/EIR Section 4.4, *Environmentally Superior Alternative*. However, as noted in Section 4.4, CDFW, as the CEQA Lead Agency, reserved the right to reach a different conclusion in finalizing the EIR based in part on its consideration of input received during the agency and public review process. Comments were requested and received on the Draft EIS/EIR from public agencies including responsible agencies, trustee agencies and other state, Federal, and local agencies with jurisdiction over resources that could be affected by the Project (see Final EIR Appendix B3, *Commenting Parties*). CDFW also sought input from individuals with special expertise regarding the potential environmental impacts of the Project and from members of the general public. On the basis of this input, and upon further consideration, CDFW has concluded that the Project is the Environmentally Superior Alternative. See Final EIR Section 3.2.6.

### 2.3.3 Responses to Local Agency Comments

The following pages contain the comment letters received from local agencies and CDFW's associated responses.



**MIKE BONIN**

**City of Los Angeles  
Councilmember, Eleventh District**

**RECEIVED**

**OCT 27 2017**

**DFW Director's Office**

October 2, 2017

Charlton H. Bonham  
Director, California Department of Fish & Wildlife  
1416 9th Street, 12th Floor  
Sacramento, CA 95814

Dear Mr. Bonham:

As the elected representative of 275,000 residents of Los Angeles who live near the Ballona Wetlands, I am writing to urge you to extend the public comment for the Draft Environmental Impact Report for the Ballona Wetlands Restoration Project to 180 days.

Planning for the restoration of the Ballona Wetlands began in earnest in 2008, when the state released a study that explored a range of feasible options for the area. Publication of the DEIR has been rumored to be imminent since before I took office in 2013. Given that the document has been in preparation for nearly a decade, and is 1,242 pages long – plus 15 separate appendices – giving the public a mere 45-60 days to comment is inadequate.

AL1-1

The issues raised by the proposed project are profound. The definition of restoration, the type of restoration, the goal of restoration, and the methods of restoration are complex, nuanced and potentially controversial subjects. The project raises significant questions of water quality, wildlife preservation, public access and recreational opportunities that need to be carefully considered and balanced. Ample time must be provided for environmental organizations, government agencies, community organizations, neighborhood councils, and Westside residents (and their elected representatives) to carefully study, analyze and consider the benefits and drawbacks of the proposal.

AL1-2

Given the significant impact this project will have on the environment and ecosystem, it is imperative that public input be robust, genuine and substantive. For a document of such considerable length and complexity, a comment period of 60 days is insufficient. In the public interest, I strongly urge you to extend the comment period to 180 days.

AL1-3

Thank you in advance for your consideration.

Regards,

**MIKE BONIN**  
Councilmember, 11<sup>th</sup> District

cc: Hon. Ben Allen, State Senator  
Hon. Autumn Burke, Assemblymember

**Westchester Office**  
7166 W. Manchester Boulevard  
Los Angeles, CA 90045  
(310) 568-8772  
(310) 410-3946 Fax

**City Hall**  
200 N. Spring Street, Room 475  
Los Angeles, CA 90012  
(213) 473-7011  
(213) 473-6926 Fax

**West Los Angeles Office**  
1645 Corinth Avenue, Room 201  
Los Angeles, CA 90025  
(310) 575-8461  
(310) 575-8305 Fax



## Letter AL1: City of Los Angeles Councilmember Bonin

- AL1-1 See General Response 8, *Public Participation* (Final EIR Section 2.2.8.1), regarding CDFW’s decision not to further extend the comment period beyond 133 days.
- AL1-2 The term “restoration” is defined in Draft EIS/EIR Section 2.2.1.1 as meaning “the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former or degraded resource; restoration may be divided into two categories: re-establishment and rehabilitation (33 C.F.R. §332.2).” See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.6), which addresses multiple comments regarding the definition of “restoration.” The type, goals, and methods of restoration are described in the Draft EIS/EIR, specifically: in the Executive Summary (see, e.g., Section ES.3, *Purpose and Need/ Project Objectives*, and Section ES.4, *Overview of Alternatives*), Chapter 1 (see, e.g., Section 1.1, *Purpose and Need/Project Objectives*, and Section 1.2, *Overview of the Project*), and Chapter 2, *Description of Alternatives*. Water quality, wildlife, and public access and recreational opportunities are identified in Draft EIS/EIR Section ES.5, *Areas of Potential Controversy Known to the Lead Agencies*. Potential impacts (temporary and permanent; direct, indirect, and cumulative) to these resource considerations are analyzed, respectively, in Draft EIS/EIR Section 3.9, *Hydrology and Water Quality*; Section 3.4, *Biological Resources*; and Section 3.11, *Recreation*. Potential impacts relating to each alternative’s proposed changes to existing conditions relative to public access (see Draft EIS/EIR Table 2-1c, Summary of Alternatives, for a summary) are analyzed on a resource-by-resource basis throughout Draft EIS/EIR Chapter 3, *Environmental Consequences*.
- AL1-3 See General Response 8, *Public Participation* (Final EIR Section 2.2.8.1), regarding CDFW’s decision not to further extend the comment period beyond 133 days and why this duration provided sufficient time for organizations, agencies, and individuals to provide input.



BOARD OF SUPERVISORS  
COUNTY OF LOS ANGELES

822 KENNETH HAHN HALL OF ADMINISTRATION / LOS ANGELES, CALIFORNIA 90012

Telephone (213) 974-4444 / FAX (213) 626-6941

JANICE HAHN  
SUPERVISOR, FOURTH DISTRICT

RECEIVED

NOV 07 2017

DFW Director's Office

October 30, 2017

Charlton H. Bonham  
Director  
California Department of Fish & Wildlife  
1416 9<sup>th</sup> Street, 12<sup>th</sup> Floor  
Sacramento, CA 95814

Dear Mr. Bonham:

As the Los Angeles County Board of Supervisor for the 4<sup>th</sup> District representing approximately 2 million people, many of which are impacted by the Ballona Wetlands, I write to urge you to extend the public comment for the Draft Environmental Impact Report for the Ballona Wetlands Restoration Project to 180 days.

AL2-1

The proposed project raises many profound issues, such as water quality, wildlife preservation, public access and recreational opportunities. The definition of restoration, the type of restoration, the goal of restoration, and the methods of restoration are complex, nuanced and potentially controversial subjects as well. Sufficient time must be provided for environmental organizations, government agencies, community organizations, neighborhood councils, and residents to carefully study, analyze and consider the benefits and drawbacks of the proposal.

AL2-2

Since this project will have a significant impact on the environment and ecosystem, it is important that public input be robust, genuine and substantive. Giving the public a mere 45-60 days to comment on a document that has been in preparation for nearly a decade, and is 1,242 pages long with 15 separate appendices is inadequate.

AL2-3

Thank you for your consideration on this important matter.

Sincerely,

JANICE HAHN  
Supervisor, Fourth District  
County of Los Angeles

Cc: The Honorable Ben Allen, State Senator  
The Honorable Autumn Burke, Assemblymember

RECEIVED

NOV 08 2017

UFG  
Office of the General Counsel

S. LaGrande K. Takei



## **Letter AL2: County of Los Angeles Supervisor Hahn**

- AL2-1 See General Response 8, *Public Participation* (Final EIR Section 2.2.8.1), regarding CDFW's decision not to further extend the comment period beyond 133 days.
- AL2-2 See Response AL1-2 regarding issues about the proposed restoration that were raised and considered in the Draft EIS/EIR.
- AL2-3 See General Response 8, *Public Participation* (Final EIR Section 2.2.8.1), regarding CDFW's decision not to further extend the comment period beyond 133 days.





*Mayor* **Ted Winterer**  
*Mayor Pro Tempore* **Gleam Davis**

*Councilmembers*  
**Sue Himmelrich**  
**Kevin McKeown**  
**Pam O'Connor**  
**Terry O'Day**  
**Tony Vazquez**

November 1, 2017

Richard Brody, CDFW  
c/o ESA (jas)  
550 Kearny Street, Suite 800  
San Francisco, CA 94108

**Re: Request of Additional Extension of the Comment Period for Draft Environmental Impact Statement/Environmental Impact Report (Draft EIS/EIR) for the Ballona Wetlands Restoration Project (State Clearinghouse No. 2012071090)**

Dear Mr. Brody,

On October 25, 2017, the Santa Monica City Council voted unanimously to request a 120-day extension of the public comment period for the Ballona Wetlands Draft EIS/EIR. We recognize and appreciate that the public comment period was substantially extended to February 5, 2018. Thank you for your consideration for the parties interested in reviewing this report.

However, given the lengthy materials to review and the significant time that the Santa Monica Bay Restoration Commission and other citizens will set aside to review this report, **the City of Santa Monica would like to request that the public comment period be further extended to March 24, 2018 in order to allow for a full 120-day extension from the original date of November 24, 2017.** This timeframe will allow participating agencies, advocacy groups, and members of the public sufficient time for meaningful input.

AL3-1

Thank you for your time and consideration. We look forward to your response.

Best,

Ted Winterer  
Mayor

cc: U.S Army Corp of Engineers  
Assemblymember Richard Bloom, District 50  
Senator Ben Allen, District 26





## **Letter AL3: City of Santa Monica**

AL3-1 See General Response 8, *Public Participation* (Final EIR Section 2.2.8.1), regarding CDFW's decision not to further extend the comment period beyond 133 days.

## Comment Letter AL4

**From:** Joseph Decruyenaere [<mailto:jdecruyenaere@planning.lacounty.gov>]  
**Sent:** Thursday, January 11, 2018 8:35 AM  
**To:** 'jwilson@bos.lacounty.gov' <[jwilson@bos.lacounty.gov](mailto:jwilson@bos.lacounty.gov)>  
**Cc:** Patricia Hachiya <[phachiya@planning.lacounty.gov](mailto:phachiya@planning.lacounty.gov)>; Brody, Richard@Wildlife  
<[Richard.Brody@wildlife.ca.gov](mailto:Richard.Brody@wildlife.ca.gov)>  
**Subject:** ballona eir

Hi Jayme,

I have read the biological resources and alternatives sections of the Ballona Wetlands restoration DEIR, and I have no substantial concerns for the project. There are a few typos, as is to be expected in a document this size.

AL4-1

My only two comments other than typos are:

- I was curious where the transient gnatcatcher may have come from; adding a note on the nearest breeding population would help clear that up.
- Mitigation Measure Bio BIO-1b-ii, that relies on salvaging of low mobility animals such as reptiles and rodents, would be made better by the explicit inclusion of provisions for trapping to increase the likelihood of capture.

AL4-2  
AL4-3

These comments don't reflect on the merits of the project. I think it's a good project and a good document. The benefits to rare species would far outweigh any temporary

AL4-4  
AL4-5

## Comment Letter AL4

impacts to common native or non-native species. The non-native and common native species don't need any help—they're doing fine and will continue to do fine—but the rare natives definitely would benefit from the increase in habitat that this project would provide.

↑  
AL4-5  
cont.

Thanks,  
Joe

Joe Decruyenaere, Senior Biologist

Environmental Planning and Sustainability  
County of Los Angeles Department of Regional Planning  
320 West Temple Street  
Los Angeles, CA 90012  
213 974 1448



## **Letter AL4: County of Los Angeles Department of Regional Planning**

- AL4-1 The stated lack of substantial concerns about the analysis of potential impacts to biological resources is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*. The comment regarding unspecified typographical errors is acknowledged.
- AL4-2 In response to this comment, the following sentence has been added to the description for coastal California gnatcatcher: "According to CNDDB, the nearest reported occurrence of coastal California gnatcatcher to the Project site was one individual observed (1–3 pairs estimated) in the Baldwin Hills in 1980." See Final EIR Section 3.4.
- AL4-3 In response to this comment, the Mitigation Measure BIO-1b-ii has been modified to clarify methods of salvage. See Final EIR Section 3.4.
- AL4-4 The opinions that the Project and the Draft EIS/EIR have merit and are "good" are acknowledged and are now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.
- AL4-5 The County Senior Biologist's professional opinion that the benefits to rare species of the proposed restoration would far outweigh any temporary impacts to common native or non-native species is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process.

## Comment Letter AL5

**From:** [Glenn Bailey](#)  
**To:** [Kent Strumpell](#)  
**Cc:** [Wildlife Ballona Wetlands Ecological Reserve EIR](#); [daniel.p.swenson@usace.army.mil](mailto:daniel.p.swenson@usace.army.mil); [Mike Bonin, city](#)  
**Subject:** Re: Ballona Restoration DEIR Comments by Kent Strumpell  
**Date:** Monday, February 5, 2018 12:32:15 PM

---

Good afternoon Mr. Brody and Mr. Swenson:

I have reviewed the following comments submitted by Kent Strumpell and I concur with his observations. I encourage your agencies to implement his recommendations as part of this project.

AL5-1

Thank you.

Cordially,

**Glenn Bailey**  
Chair  
Bicycle Advisory Committee  
City of Los Angeles

Office/Voicemail/Text: 818-514-5355

BAC website: <http://labac.tumblr.com/>

BAC Facebook: <https://www.facebook.com/LosAngelesBicycleAdvisoryCommittee/>

On Mon, Feb 5, 2018 at 12:15 PM, Kent Strumpell <[kentstrum@aol.com](mailto:kentstrum@aol.com)> wrote:  
February 5, 2018

Mr. Richard Brody CDFW c/o ESA (jas) 550 Kearney Street, Suite 800 San Francisco, California, 94108

Daniel Swenson, Regulatory Division U.S. Army Corps of Engineers [Los Angeles District](#) 915 Wilshire Blvd, Suite 930 Los Angeles, CA 90017

Sent Via E-mail to: [BWERcomments@wildlife.ca.gov](mailto:BWERcomments@wildlife.ca.gov) and [daniel.p.swenson@usace.army.mil](mailto:daniel.p.swenson@usace.army.mil)

SUBJECT: Ballona Restoration DEIR Comments

Dear Mr. Brody and Mr. Swenson:

Thank you for the opportunity to comment on the DEIR. My comments concern the need for the restoration project to avoid significant negative impacts to the bicycle transportation functionality in the project area. As you are no doubt aware, the multi-use trail along the Ballona Creek has been an important bicycle commuter route for many decades, providing a safe and efficient off-highway bikeway through an area for which there are no viable alternative bike routes.

AL5-2

The bicycle transportation functionality of the Ballona Creek Trail will only become more important over time as we continue to expand and enhance transportation alternatives in the face of climate change-related CO2 reduction mandates, local traffic congestion and the need for safe, convenient coastal access.

AL5-3

Specific comments and recommendations follow.

1. The DEIR fails to acknowledge the transportation role of the existing bikeways in the project vicinity and limits its discussion to recreational cyclists only. The final EIR should correct this by analyzing the potential regional bicycle transportation impacts the project could have on bicycle commuters and other cyclists who depend on this critical cycling facility for their everyday mobility needs.

AL5-4

2. Elimination of or modifications to the now-direct bike route through the project area must preserve safety and convenience and not increase conflicts with non-bicycle trail users. That means that if the existing direct bike path route paralleling the Ballona Creek is not restored in some fashion, a new route should not compromise the bicycle transportation functionality by causing circuitous routing, impose travel time delays or worsen congestion hazards with non-bicycle trail users.

AL5-5

3. A new bike and pedestrian bridge is proposed in the restoration plan over Ballona Creek just west of Culver Blvd.(shown in DEIR Figure 2-3). It is clear that this bridge is essential to connecting cyclists to the most direct new route through the proposed restoration project area. Therefore this bridge must be fully integrated into the project scope, funding and scheduling so that bikeway functionality is not compromised or delayed beyond the primary project completion date or dependent on uncertain funding source(s).

AL5-6

4. It is important to assure that there will be safe bikeways through the project area during a presumed lengthy construction period (on a par with considerations that would be a given for motor vehicle access and safety in a similar situation). There are no good onroad bike routes through the area that provide the same connectivity. Sequencing of the project phases could help, if any new alternate routes are open and functional before the existing trail is modified or critical segments eliminated.

AL5-7

5. The existing bike lanes on Fiji Way are the most convenient and direct route for bicycle commuters traveling north-south through the project area, traveling daily between the South Bay and MdR/Venice/Santa Monica. The restoration project should not compromise or eliminate the existing bike lanes on Fiji.

AL5-8

6. A secondary entrance is shown in Figure 2-3 in the vicinity of Lincoln Blvd. and Fiji. It would make more sense for this entrance to instead be located at Fiji and Admiralty Ways (or an additional entrance added there). This would thereby allow direct and safe connectivity between the proposed bike-ped trail in Area A with the existing Braude Bike Trail along Admiralty Way with a single signalized crossing. In contrast, the proposed entrance nearer Lincoln would require northbound cyclists wishing to connect to the Braude trail to first cross the uncontrlled right-turn connector at eastbound Fiji and Lincoln, then use the signalized pedestrian crosswalk across Fiji, go on-road to Admiralty and cross with the signal there. Adding conflict to this connection is the high volume of traffic turning right into the Waterside shopping center parking lot in this stretch of Fiji Way.

AL5-9

Finally, the City of LA Bicycle Advisory Committee is available to provide additional feedback on bicycle transportation issues related to the restoration project. Please keep us in the loop so we can help assure that design problems are avoided before they get locked in and so that we can help identify any opportunites that your planners may have overlooked. You can contact me at email or phone provided below and BAC Chair Glenn Bailey at

AL5-10



[glennbicyclela@gmail.com](mailto:glennbicyclela@gmail.com).

Thank you,

Kent Strumpell  
CD 11 appointee to the City of Los Angeles Bicycle Advisory Committee, Planning  
Subcommittee chair  
6483 Nancy St.  
Los Angeles, CA 90045  
[310-527-1618](tel:3105271618)  
[Kentstrum@aol.com](mailto:Kentstrum@aol.com)



## **Letter AL5: City of Los Angeles Bicycle Advisory Committee, Planning Subcommittee Chair**

- AL5-1      Concurrence with the observations and recommendations of Kent Strumpell is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.
- AL5-2      The stated preference to avoid significant adverse impacts to the bicycle transportation functionality in the Project area is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process.
- AL5-3      As disclosed in Draft EIS/EIR Section 3.11.2.1, *Study Area*, and described in Draft EIS/EIR Section 3.11.2.2, *Environmental Setting*, the Draft EIS/EIR's evaluation of potential impacts to recreation considers bicycle paths and pedestrian trails within 0.5 miles of the Project Site and includes segments of the 7-mile-long Ballona Creek Bike Path and the 22-mile-long Marvin Braude Bike Trail, among other bicycle lanes and routes in the Project Area. Support for the bicycle transportation functionality of the Ballona Creek Trail is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process.
- AL5-4      The Draft EIS/EIR analyzes the transportation role of the existing bikeways in the project vicinity. Specifically, the analysis of Impact 1-TRANS-6 in Draft EIS/EIR Section 3.12.6.1 analyzes whether Alternative 1 would adversely affect alternative transportation travel modes, expressly including bicycle travel. As noted in that discussion, "the Ballona Creek Bike Path would remain open during restoration activities. Eventually the path would have two different routes for riders to choose between." The same would be true for Alternatives 2 and 3 (see the analysis of Impact 2-TRANS-6 and Impact 3-TRANS-6, respectively). See also Mitigation Measure TRANS-1a, Construction Traffic Management Plan, in Draft EIS/EIR Section 3.12.6.1, which would require signage to alert bicyclists along all potentially affected bicycle routes in advance of construction activities. To comply with the mitigation measure, the signs must include information about the nature of construction activities, duration, and detour routes.
- AL5-5      See Response AL5-4. The Ballona Creek Bike Path would remain open during restoration activities under each of the restoration alternatives. Regarding the commenter's concern about conflicts between bike uses and non-bicycle trail uses, see Draft EIS/EIR Figure 2-26, Typical Trail at Levees' Edge, and Figure 2-27, Typical Pedestrian & Bike Trail, showing a 2-foot buffer between a walking path and bike path/emergency vehicle access.
- AL5-6      The bike and pedestrian bridge proposed over Ballona Creek (as shown in Draft EIS/EIR Figure 2-3) would be constructed under either the Project (Alternative 1) or Alternative 2, but would not be constructed under Alternative 3. As explained in Draft EIS/EIR Section 2.2.4.3, "The primary access difference in Alternative 3 would be that a new pedestrian and bicycle path would not be created within Area B along Culver



- Boulevard. The existing bicycle and pedestrian access would remain along the north side of existing Ballona Creek channel, with a new access loop around the new Area A perimeter levee.” See also Draft EIS/EIR Table 2-7, Alternative 1 Restoration Schedule, where construction of the pedestrian/bicycle bridge across the channel would be step 4 of 35, and Table 2-23, Alternative 2 Restoration Sequence Stages, where construction of the pedestrian/bicycle bridge across the channel would be step 11 of 31.
- AL5-7 See Response AL5-4 regarding Mitigation Measure TRANS-1a, Construction Traffic Management Plan, and the restoration/construction -phase protections it would require for bicyclists in the project area. Only the Project would be phased; phasing would be sequenced as described in Draft EIS/EIR Section 2.2.2.1.
- AL5-8 The preference that restoration activities not adversely affect the existing bike lanes on Fiji Way is acknowledged and is now part of the record of information that will be considered as part of CDFW’s decision-making process. See Final EIR Section 2.1.1, *Input Received*.
- AL5-9 The request to relocate the secondary entrance shown near Lincoln Boulevard and Fiji Way is acknowledged and is now part of the record of information that will be considered as part of CDFW’s decision-making process. See Final EIR Section 2.1.1, *Input Received*.
- AL5-10 The availability of and interest by the Committee in continuing to provide feedback on bicycle transportation issues related to the restoration project is appreciated. CDFW looks forward to future engagement with the Committee as the decision making process unfolds.



Caring for Your Coast

**Gary Jones**  
Director

**Kerry Silverstrom**  
Chief Deputy

**John Kelly**  
Deputy Director

**Brock Ladewig**  
Deputy Director

February 5, 2018

Richard Brody, CDFW  
c/o ESA (jas)  
550 Kearney Street, Suite 800  
San Francisco, CA 94108

### BALLONA WETLANDS RESTORATION PROJECT EIR

Dear Mr. Brody,

Thank you for the opportunity to comment on the Ballona Wetlands Restoration Project Draft Environmental Impact Report. The Department of Beaches and Harbors manages 25 miles of coastline and the Marina del Rey Harbor, which is located adjacent to the Ballona Wetlands.

AL6-1

We are excited by the potential habitat restoration and eco-tourism potentially benefiting the Marina del Rey community that would occur if Alternatives 1, 2, or 3 are selected. These alternatives would take an area that is mostly composed of degraded wetland, and is inaccessible to the public, and turn it into a thriving habitat that the public can access via bike paths and walking trails. Visitors to Marina del Rey frequently inquire about opportunities to enjoy nature and wildlife in and around the Marina. These restoration alternatives provide a great opportunity to educate the public about rare and valuable resources while also increasing opportunities for passive recreation.

AL6-2

We also appreciate that the Department of Fish and Wildlife has included parking lots currently utilized by the Department of Beaches and Harbors and the Sheriff's Department in all of the project alternatives. These lots are crucial to our operations, which include maintaining Marina del Rey and its harbor, providing parking enforcement, and assisting the Department of Fish and Wildlife with cleanup and law enforcement efforts related to the Ballona Wetlands.

AL6-3

Respectfully submitted,

Michael Tripp, Chief  
Planning Division

GJ:BL:mrt





## Letter AL6: Los Angeles Department of Beaches and Harbors

- AL6-1 The proximity of land and activities administered by CDFW in proximity to the Ballona Reserve is acknowledged in the Draft EIS/EIR. See, e.g., Draft EIS/EIR Table 1-1, which discloses that the Department “is responsible for enhancing public access to and enjoyment of County-owned and operated beaches, including Marina del Rey.”
- AL6-2 Support for habitat restoration, passive recreation and potential eco-tourism and educational opportunities pursuant to Alternative 1, 2, or 3 is acknowledged and is now part of the record of information that will be considered as part of CDFW’s decision-making process. See Final EIR Section 2.1.1, *Input Received*.
- AL6-3 Support for the parking improvements proposed under Alternatives 1, 2, and 3 is acknowledged and is now part of the record of information that will be considered as part of CDFW’s decision-making process. See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.4), which addresses multiple comments received regarding parking.



MARK PESTRELLA, Director

## COUNTY OF LOS ANGELES

### DEPARTMENT OF PUBLIC WORKS

*"To Enrich Lives Through Effective and Caring Service"*

900 SOUTH FREMONT AVENUE  
ALHAMBRA, CALIFORNIA 91803-1331  
Telephone: (626) 458-5100  
<http://dpw.lacounty.gov>

ADDRESS ALL CORRESPONDENCE TO:  
P.O. BOX 1460  
ALHAMBRA, CALIFORNIA 91802-1460

February 5, 2018

IN REPLY PLEASE

REFER TO FILE: SWP-1

Mr. Richard Brody  
California Department of Fish and Wildlife  
c/o ESA (jas)  
550 Kearney Street, Suite 800  
San Francisco, CA 94108

Dear Mr. Brody:

**BALLONA WETLANDS RESTORATION PROJECT  
DRAFT ENVIRONMENTAL IMPACT STATEMENT/ENVIRONMENTAL IMPACT REPORT  
LACFCD COMMENTS**

Thank you for the opportunity to review the Draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the Ballona Wetlands Restoration Project. The Los Angeles County Flood Control District (LACFCD) owns and operates the existing Ballona Creek flood control channel and levees (including segments within the Ballona Reserve) for flood risk management purposes. Under the California Environmental Quality Act, LACFCD qualifies as a "Responsible Agency" that has discretionary approval over the Project.

AL7-1

Enclosed are comments from the LACFCD, which should be addressed in the EIS/EIR. Additional comments may be provided by the LACFCD once the responses and requested information in this comment letter have been provided.

We request that all future environmental documents associated with the Project be submitted to LACFCD for review, including the Response to Comments.



Mr. Richard Brody  
February 5, 2018  
Page 2

If you have any questions, please contact Mr. Cung Nguyen at (626) 458-4341 or [cunguyen@dpw.lacounty.gov](mailto:cunguyen@dpw.lacounty.gov).

Very truly yours,

MARK PESTRELLA  
Director of Public Works

  
DANIEL J. LAFFERTY  
Assistant Deputy Director  
Stormwater Planning Division

RG:pt

P:\wmpub\Secretarial\2018 Documents\Letters\Ballona Wetlands DEIS-EIR\Ballona letter.docx\C18022

Enc.

bc: County Counsel (Dods, Yanai)  
Land Development Division (Duong)  
Programs Development Division (Dingman)  
Stormwater Maintenance Division (Teran, Lacayo)

**LOS ANGELES COUNTY FLOOD CONTROL DISTRICT'S  
COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT/  
ENVIRONMENTAL IMPACT REPORT FOR THE  
PROPOSED BALLONA WETLANDS RESTORATION PROJECT**

**1. Los Angeles County Flood Control District is a Responsible Agency not a Project Proponent**

The Environmental Impact Statement/Environmental Impact Report (EIS/EIR) should be revised to reflect the Los Angeles County Flood Control District (LACFCD) as a Responsible Agency, not a "Project Proponent."

**Recommendation 1:**

Remove all references of the LACFCD as a Project Proponent within the EIS/EIR document and its Appendices.

AL7-2

**2. Los Angeles County Flood Control District is a Responsible Agency with Discretionary Approvals**

As a Responsible Agency, the LACFCD will need to rely upon the EIR prepared by California Department of Fish and Wildlife (CDFW) for any recommended discretionary approvals related to the Project. Currently, the LACFCD anticipates the following discretionary actions related to the proposed Project may be necessary, based on the Project Description:

- Issue LACFCD Flood Permit and accept 408 Permit from United States Army Corps of Engineers (Corps) for modifications to the existing Ballona Creek Channel and levee system; and
- Enter into potential collaborative agreement(s) with CDFW for right-of-way (ROW) modifications, future operation and maintenance (O&M) of certain Project features, and compliance with the Corps Section 408 Permit, as discussed under Comment 3.

AL7-3

**Recommendation 2:**

Add the following to Table 1-1, Summary of Required Permits and Approvals, under "Local Agencies":

Agency	Required Permits and Approvals	Jurisdiction/Purpose/Applicant
Los Angeles County Flood Control District (LACFCD)	Flood Permit and Acceptance of 408 Permit	LACFCD owns and operates the Ballona Creek Channel and levee system. A Flood Permit from the LACFCD is required for modifications to Ballona Creek Channel and the levee system. LACFCD, in coordination with CDFW, has submitted a Section 408 request to the Corps to modify project features under its jurisdiction. Once the Corps' has approved the request, the LACFCD must determine whether to accept the terms and conditions of the 408 Permit.
	Potential Collaborative Agreement(s)	<ol style="list-style-type: none"> <li>1. For ROW modifications;</li> <li>2. For future O&amp;M of some features of the proposed Project;</li> <li>3. For compliance with Section 408 Permit conditions.</li> </ol>

AL7-3  
cont.

**3. Potential Agreements with the Los Angeles County Flood Control District**

Depending on the Project alternative that CDFW ultimately selects for implementation, it may be appropriate for CDFW and the LACFCD to enter into one or more collaborative agreements related to right-of-way modifications, postconstruction O&M of certain Project features, and compliance with Section 408 Permit conditions.

Any such activities to potentially be included in future collaborative agreements with the LACFD should be clearly described within the EIS/EIR for each proposed Project alternative and should clearly describe any potential environmental impacts associated with such activities.

AL7-4

**Recommendation 3:**

Discuss the potential environmental impacts associated with activities that may be included in collaborative agreements including ROW modifications, O&M of certain Project features, and compliance with Section 408 Permit conditions for each project alternative.

**4. Responsibility for all Future Operations and Maintenance (O&M) has not been determined**

Responsibility for all future O&M has not been determined. The LACFCD has not agreed to take on any added responsibility for O&M due to the implementation of the Project. Responsibilities will be determined during the negotiations of the proposed O&M Agreement. The O&M Agreement will define the roles and responsibilities for all O&M activities with the Project area.

The Preliminary Operations and Maintenance Plan (Appendix B5 in the Draft EIS/EIR) describes the anticipated short- and long-term management and maintenance activities. Table 1 in Appendix B5 details the Existing and Future LACFCD O&M Activities. Revisions are needed to these and other sections of the EIS/EIR to remove responsibilities assigned to the LACFCD.

AL7-5

**Recommendation 4:**

Remove all references to the LACFCD having maintenance responsibilities for Project features within the EIS/EIR document and its Appendices. Instead, refer to a potential future O&M Agreement that will define roles and responsibilities for O&M.

**5. Identify CDFW as the responsible entity for all required mitigation for maintenance activities**

The LACFCD requests that CDFW take responsibility for carrying out and funding any mitigation associated with post-construction O&M for the proposed Project in perpetuity. This includes all mitigation required within agreements/permits from all permitting agencies, including, but not limited to CDFW, the Corps, California Coastal Commission, and the California Regional Water Quality Control Board. The O&M activities to be mitigated for include, but are not limited:

AL7-6

- Emergency work within the Project site to manage flood risk
- Facility repairs
- Sediment removal/dredging
- Vegetation removal
- Maintenance access

**Recommendation 5:**

The Final Mitigation Monitoring and Reporting Program (MMRP) should identify CDFW as responsible for any mitigation associated with the Project.

**6. Revise the Mitigation Monitoring and Reporting Program (Appendix B6 of the Draft EIS/EIR)**

Appendix B6 of the Draft EIS/EIR consists of a MMRP proposed by CDFW. The Preliminary MMRP, as currently organized, does not clearly identify the timing of implementation of proposed mitigation measures. Organizing the MMRP according to the activities recommended below would lessen ambiguity in identifying mitigation measures performed for a proposed activity within a particular phase of the Project.

1. Pre-Construction
2. Construction
3. Post-Construction

**Recommendation 6:**

Revise MMRP (Appendix B6) so that for each mitigation measure proposed the entity that will be responsible for implementation is identified and the mitigation measures are organized by Project phase, for example, as listed below:

1. Pre-Construction
2. Construction
3. Post-Construction

AL7-7

**7. Post-Construction Environmental Impacts**

The Draft EIS/EIR does not sufficiently disclose and analyze the environmental impacts of future (post-restoration) O&M activities, such as:

- Emergency work within the Project site to address flood risk
- Facility Repairs
- Sediment removal/dredging
- Vegetation Removal
- Maintenance access

Additional analysis or clarification of the postrestoration environmental impacts due to new/expanded maintenance activities is required. The EIS/EIR should thoroughly and comprehensively address the impacts of the future O&M activities for all applicable environmental impact areas including as they relate to a proposed Project alternative. Furthermore, each mitigation measure should clearly identify any and all O&M activities that the mitigation measure addresses, if any.

The environmental impacts should be evaluated once the restoration has occurred and the new vegetation and habitat has been established within the restored Project site. All environmental impacts of a required future O&M activity should be evaluated. For example, impacts from postrestoration dredging should be analyzed as they relate to impact areas including, but not limited to, air quality, biological resources,

AL7-8



greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, noise, recreation, and transportation and traffic.

**Recommendation 7:**

Revise Chapter 3, the MMRP, and the Monitoring and Adaptive Management Plan to address Comment 7.

AL7-8  
cont.

**8. Revise Description of Operation and Maintenance Agreement**

Section 2.2.2.7, Alternative 1: Operations and Maintenance (Page 2-152 of the Draft EIS/EIR) indicates:

"A new long-term Operations and Maintenance Agreement between LACFCD and CDFW would need to be established identifying all new Operations and Maintenance responsibilities that address: (1) habitat and vegetation; (2) trash removal; (3) the newly modified channel and levees; (4) water-control structures; (5) parking facilities; (6) the baseball fields; (7) SoCalGas Property; and (8) other ongoing and routine maintenance."

Section 2.2.4.7, Alternative 3: Operations and Maintenance (page 2-193 of the Draft EIS/EIR) indicates:

"A new long-term O&M Agreement (between LACFCD and CDFW) would need to be established identifying all new Operations and Maintenance responsibilities that address: (1) habitat and vegetation, (2) trash removal, (3) water-control structures, (4) parking facilities, (5) baseball fields, and (6) other ongoing and routine maintenance as described for Alternative 1."

AL7-9

Parking facilities, the baseball fields, and SoCalGas property fall outside of the responsibilities of LACFCD. As indicated in Appendix B5, Preliminary Operations and Maintenance Plan, Section 1.2 (Page B5-7 of the Draft EIS/EIR), "While the primary responsibilities for the management and maintenance of the Ballona Reserve fall under the responsibility of CDFW and LACFCD, other responsible parties may be involved, including, but not necessarily limited to, Los Angeles County Department of Beaches and Harbors, Los Angeles County Sheriff's Department, City of Los Angeles Fire Department, and Ballona Wetlands Conservancy." This fact should be clarified within the main body of the EIS/EIR.

**Recommendation 8:**

Revise Section 2.2.2.7, Section 2.2.4.7, and all other pertinent sections of the EIS/EIR to accurately reflect the responsibilities of the LACFCD and other agencies for the Project.



Sample Proposed Revision

Chapter 2, Section 2.2.2.7, page 2-152, paragraph 2

Revised Text: "The intent of the Project is to restore a wetland and creek habitat and flood risk management system that is sustained by natural processes and requires minimal Operations and Maintenance activities. A new long-term Operations and Maintenance Agreement between LACFCD and CDFW would need to be established identifying any new Operations and Maintenance responsibilities that address: (1) habitat and vegetation; (2) trash removal; (3) the newly modified channel and levees; (4) water-control structures; and (5) other ongoing and routine maintenance."

AL7-9  
cont.

**9. Delete reference to "Los Angeles County Floodplain Management Division"**

Table 1-1, Page 1-26, lists "Los Angeles County Floodplain Management Division" as a local agency from which a permit or approval is needed for the Project. If that reference is intended to be for a division within the County of Los Angeles Department of Public Works, that reference should be deleted. The County of Los Angeles Department of Public Works does not provide the approval for the Conditional Letter of Map Revision. The approval is given by the Federal Emergency Management Agency. The Federal Emergency Management Agency is already listed as an approval agency for the Conditional Letter of Map Revision within Table 1-1.

AL7-10

**Recommendation 9:**

Delete the following under "Local Agencies" from Table 1-1, Summary of Required Permits and Approvals:

Agency	Permits and Other Requirements	Jurisdiction/Purpose/Applicant
Los Angeles County Floodplain Management Division	Conditional Letter of Map Revision	Determination of effects upon the hydrologic or hydraulic characteristics of a flooding source and the resulting modification of the existing floodway.



## Letter AL7: Los Angeles County Flood Control District

AL7-1 The Draft EIS/EIR discusses LACFCD's interest in and operation of LACDA project infrastructure within the Ballona Reserve. See, e.g., Key Definitions and Acronyms ("The Los Angeles County Department of Public Works maintains a portion of the Ballona Creek channel by virtue of an easement and by statutory obligation as the non-Federal sponsor of the LACDA project"), Footnote 1 in the Executive Summary, and Footnote 3 in Chapter 1. LACFCD also is identified as a permit applicant in EIS/EIR Section ES.2.1 ("LACFCD submitted a request pursuant to Section 14 of the Rivers and Harbors Act (33 U.S.C. §408, "Section 408") on July 23, 2013, to alter or modify the LACDA project features"). However, the Draft EIS/EIR does not identify LACFCD as a responsible agency for purposes of CEQA.

CEQA defines public agencies other than the lead agency that have discretionary approval power over a project as "responsible agencies" (CEQA Guidelines §15381). Draft EIS/EIR Section ES.2.4 and Section 1.4.3 identify responsible agencies for this Project as including, but not limited to, the Fish and Game Commission, State Water Resources Control Board, California Coastal Commission, and South Coast Air Quality Management District. Draft EIS/EIR Table 1-1, Summary of Required Permits and Approvals, does not identify LACFCD as an agency having discretionary approval power over the project. As discussed in Response AL7-3, the Final EIR has been revised to identify LACFCD as a responsible agency.

AL7-2 See Response AL7-3 regarding LACFCD's responsible agency status under CEQA.

The Draft EIS/EIR conflated the ideas of project applicant and project proponent. CDFW now understands that the term "proponent" could be understood more broadly to include a position of advocacy for the Project. The Final EIR has been revised for clarity to separate these concepts. For example, Section ES.2.1, which in the Draft EIS/EIR was called "Project Proponents" and described both permit applicants and project proponents, now is called "Permit Applicants" and identifies CDFW and LACFCD as applicants for permits necessary to implement the proposed restoration. The text describing CDFW, California State Coastal Conservancy (SCC), The Bay Foundation, and the CSLC as proponents of the project has been moved to a new Section ES.2.5 called "Project Proponents."

A corresponding clarification to the text of Mitigation Measure WQ-1a-i: Monitoring and Adaptive Management Plan (MAMP) also has been made, i.e., the term "project proponents" has been deleted.

AL7-3 CDFW has revised the Draft EIS/EIR to clarify that LACFCD is a responsible agency. See Final EIR Section 3.2.2, *Executive Summary*, and Section 3.2.3, *Introduction*.



AL7-4 CDFW has revised Draft EIS/EIR Table 1-1, Summary of Required Permits and Approvals, to list “Agreements with CDFW” as potentially necessary approvals. See Final EIR Section 3.2.3, *Introduction*.

Draft EIS/EIR Appendix B5, *Preliminary Operations and Maintenance Plan*, identifies operation and maintenance activities for the Project and alternatives. Such activities include, for example, repairs to water control structures, pre-treatment basins, storm drain pipes, headwalls, and berms associated with the stormwater management features; paths of ingress/egress, hardscape surfaces, fences and gates, weep holes, bike paths, walking trails, and overlooks. Operation and maintenance activities described in the Preliminary Operations and Maintenance Plan also include habitat and vegetation maintenance as part of bank protection for the Ballona Creek Channel and perimeter levees; vegetation removal from vegetation maintenance zones on perimeter levees and non-native vegetation removal from bio-swales and pre-treatment basins. Sediment removal/dredging activities are discussed relative to the pretreatment basins and maintenance of the connector channels between the water control structures and the Ballona Creek in South Area B to West Area B, Southeast Area B to North Area B, and from the Freshwater Marsh to North Area B. Maintenance of access ways also is described, including the maintenance of access to public parking lots, maintenance of emergency access routes, and access roads for the levees and new water-control structures. The impacts of these activities have been analyzed for each alternative on a resource-by-resource basis throughout the Draft EIS/EIR.

Levee repair and other actions that could be needed to respond to an emergency (which is defined in CEQA case law as a clear and imminent danger that demands immediate attention) already are described for purposes of routine, scheduled maintenance. The impacts to the physical environment of such activities are analyzed on a resource-by-resource basis throughout the Draft EIS/EIR. However, to the theoretical extent that some new physical impact could result, CDFW notes that emergency projects are exempt from the requirements of CEQA (14 CCR §15269).

Regarding Right of Way (ROW) modifications, any such modification would occur through appropriate agreement(s) between LAFCD and CDFW. The reason to modify the ROW is because, depending on the Alternative that is permitted, the locations of the levees could change and therefore the access to conduct O&M could change. As mentioned above, the impacts of the O&M activities have been analyzed for each alternative on a resource-by-resource basis throughout the Draft EIS/EIR.

Technical analysis needed to support the Section 408 process is beyond the scope of this EIR. Nonetheless, CDFW anticipates that the Corps will include it in the Final EIS.

Ultimately, CDFW has no specific indication that entering into the agreements identified by the commenter would result in environmental effects that are not already analyzed in the Draft EIS/EIR. See 14 CCR §15096(d) regarding the level of specificity to be provided in a responsible agency's comments on a draft EIR.



- AL7-5 The Draft EIS/EIR analyzes the potential beneficial effects and adverse impacts to the physical environment that could result if the proposed project or another restoration alternative were approved. The comment provides no evidence that the identity of the entity responsible for implementing the activities necessary to implement, operate and maintain the project could affect the potential environmental impact determination of the activities themselves. For this reason, the preliminary allocation of responsibilities in the Preliminary Operations and Maintenance Plan (Draft EIS/EIR Appendix B5) should be considered just that – preliminary. The assignment of responsibilities can be determined pursuant to the “Potential Collaborative Agreement” process identified in Comments AL7-3 and AL7-4 without affecting the analysis or impact conclusions in the Draft EIS/EIR. No change has been made in response to this comment.
- AL7-6 O&M activities are described in Draft EIS/EIR Chapter 2 (see Sections 2.2.1.7, 2.2.2.7, 2.2.3.7, 2.2.4.7, and 2.2.5.5) and in Draft EIS/EIR Appendix B5, *Preliminary Operations and Maintenance Plan*. Mitigation is defined as actions of avoidance, minimization, and/or compensatory mitigation. As indicated in Response AL7-4, the Draft EIS/EIR analyzes the impacts of these activities on a resource by resource basis. Where the severity of potential impacts could be reduced, mitigation measures are identified. Where LACFCD personnel or contractors are implementing the activities that could cause a potential impact, LACFCD would be responsible for implementing any associated mitigation measure(s), including avoidance of the impact where specified. The Draft EIS/EIR has not been revised in response to this comment.
- AL7-7 The Preliminary MMRP provided in Appendix B6 of the Draft EIS/EIR has been further developed refined in the Final EIR and, as revised, includes the timing of implementation of the proposed mitigation measures. See Final EIR Appendix F.
- AL7-8 The Draft EIS/EIR discloses and analyzes the environmental impacts of operation and maintenance activities on a resource by resource basis under the heading “Post-restoration.” See, e.g., Draft EIS/EIR Section 3.4.6 (analyzing the direct and indirect impacts of operation and maintenance activities to biological resources) and Section 3.9.6 (analyzing the direct and indirect impacts of operation and maintenance activities to hydrology and water quality).

See Response AL7-4, which identifies operation and maintenance activities described in the Draft EIS/EIR, including those relating to facility repairs, sediment removal and dredging, vegetation removal, and access for maintenance purposes. This comment does not suggest why the descriptions provided are perceived to be inadequate, and does not identify any “new/expanded maintenance activities” that should be required.

The request that each mitigation measure identify all operation and maintenance activities to which it applies is acknowledged and was already addressed in the Draft EIS/EIR. See, e.g., Mitigation Measure BIO-1b-i, which states in part (with emphasis added), “Known special-status plant populations shall be flagged by a qualified



biologist/botanist *prior to the start of vegetation or ground-disturbing activities*, and shall be avoided to the extent feasible. *Prior to any vegetation or ground disturbance*, a qualified biologist/botanist shall conduct rare plant surveys at the appropriate time of year to determine whether special-status plant populations have established, expanded and/or migrated on-site. If new individuals or populations are identified during the rare plant surveys, they shall be flagged for avoidance to the extent feasible.” See also Mitigation Measure BIO-11-i, which states in part (with emphasis added), “A qualified biologist shall recommend approved limits of disturbance, including construction staging areas *and access routes*, to minimize impacts to nesting habitat for birds and raptors.” Further, Mitigation Measure BIO-11-i says in part (with emphasis added), “*Within 24 hours of post-restoration activities involving ground or vegetation disturbance* within suitable burrowing owl habitat, a qualified biologist shall conduct a survey to check for signs of burrowing owl. ...” The Monitoring and Adaptive Management Plan (MAMP) called for in Mitigation Measure WQ-1a-I would apply to the permittees. As a permittee, LACFCD could be responsible for implementation of the mitigation measure if so indicated by the agreement to be developed with CDFW (see Comment and Response AL7-5). It is not clear from the comment what further clarification is needed.

The comment suggests that “the environmental impacts should be evaluated once the restoration has occurred and the new vegetation and habitat has been established within the restored Project site.” However, CEQA requires the analysis of potential impacts before permits or other discretionary approvals are granted. After the fact would be too late to serve the purposes of CEQA. Nonetheless, each of the restoration alternatives includes monitoring and adaptive management. See, e.g., Draft EIS/EIR Section 2.2.1.6 (features common to all restoration alternatives), Section 2.2.2.6 (the Project), Section 2.2.3.6 (Alternative 2), and Section 2.2.4.6 (Alternative 3). Therefore, in the event that adjustments within the defined framework are needed, the Project is structured in a way to accommodate them.

The impacts of post-restoration operations and maintenance activities have been analyzed in the Draft EIS/EIR. See, e.g., Draft EIS/EIR Section 3.3.6 (which analyzes the direct and indirect impacts of post-restoration operations and maintenance activities on air quality for each of the impact areas), Section 3.4.6 (which analyzes the direct and indirect impacts of post-restoration operations and maintenance activities on biological resources), Section 3.7.6 (which analyzes the impacts of post-restoration operations and maintenance activities related to greenhouse gas emissions), Section 3.8.6 (which analyzes the direct and indirect impacts of post-restoration operations and maintenance activities related to hazards and hazardous materials), Section 3.9.6 (which analyzes the direct and indirect impacts of post-restoration operations and maintenance activities on hydrology and water quality), Section 3.10.6 (which analyzes the direct and indirect impacts of post-restoration operations and maintenance activities related to noise), Section 3.11.6 (which analyzes the direct and indirect impacts of post-restoration operations and maintenance activities on recreation), and Section 3.12.6 (which analyzes the direct



and indirect impacts of post-restoration operations and maintenance activities on transportation and traffic). The comment provides no information about how these analyses may be perceived to be inaccurate or inadequate. Accordingly, CDFW does not have enough information to provide a more detailed response.

- AL7-9 See Response AL7-5 regarding why no change has been made to the Final EIR to clarify who (which entity) will be responsible for which operations and maintenance actions. The EIR preparers defer to the parties entering into the agreement to establish those details.
- AL7-10 In response to this request, CDFW has deleted the reference in Draft EIS/EIR Table 1-1 to the Los Angeles County Floodplain Management Division. See Final EIR Section 3.2.4, *Introduction*.



**SANTA MONICA MOUNTAINS CONSERVANCY**

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January 22, 2018

Richard Brody  
California Department of Fish and Wildlife  
c/o ESA (JAS)  
550 Kearny Street, Suite 800  
San Francisco, California 94108

**Support for Public Access Connections  
from the Ballona Reserve to the Santa Monica Mountains**

Dear Mr. Brody:

The Santa Monica Mountains Conservancy (SMMC) extends its support to the California Department of Fish and Wildlife for proposed public access improvements to the Ballona Wetlands Ecological Reserve, as more fully described in the Draft Environmental Impact Report/Statement, as long as they are sensitively designed to support the environmental resources. The SMMC has not yet taken a position in support or opposition to the other components of the proposed project. These access linkages will offer significant public benefits and ultimately expand recreational opportunities to and within the Santa Monica Mountains.

AL8-1

The Project objectives include development of compatible public access improvements for recreation and educational purposes at the Ballona Reserve, specifically by providing a system of entrances, public spaces and walking trails with signage, interpretation and learning opportunities focused on the natural resources and cultural context of restored uplands habitat and by providing new access for cyclists. These trails, especially the bike trails, will connect with existing bike routes that connect the Ballona Reserve to the Santa Monica Mountains.

AL8-2

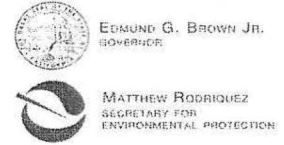
Sincerely,

  
CRAIG SAP  
Chairperson



## **Letter AL8: Santa Monica Mountains Conservancy**

- AL8-1 SMMC's support for sensitively designed public access improvements that expand recreational opportunities to and within the Santa Monica Mountains is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.
- AL8-2 The summaries of project objectives and the benefits of compatible public access improvements in this comment are accurate. Additional details of the project objectives may be found in Draft EIS/EIR Section ES.3, *Purpose and Need/Project Objectives*, and in Draft EIS/EIR Section 1.1, *Purpose and Need/Project Objectives*. Additional information about the proposed public access improvements may be found in Draft EIS/EIR Section 2.2, *Description of Alternatives Evaluated in Detail*.



Los Angeles Regional Water Quality Control Board

February 7, 2018

Richard Brody, CDFW  
c/o ESA (jas)  
550 Kearny Street, Suite 800  
San Francisco, CA 94108

Email: [BWERcomments@wildlife.ca.gov](mailto:BWERcomments@wildlife.ca.gov)

**Ballona Wetlands Restoration Project Draft Environmental Impact Report (State Clearinghouse No. 2012071090)**

Dear Mr. Brody:

The Los Angeles Regional Water Quality Control Board (Los Angeles Water Board) has reviewed the Ballona Wetlands Restoration Project Draft Environmental Impact Report (DEIR) and wishes to provide the following comments.

**General Comments**

- The Los Angeles Water Board supports restoration of the Ballona Wetlands to its full beneficial uses by meeting water quality objectives and eliminating identified impairments as discussed further below.
- The Ballona Wetlands is an important waterbody and natural resource in the Los Angeles Region. The waterbody's beneficial uses listed in the Los Angeles Water Board's Basin Plan include:
  - wetland habitat,
  - estuarine habitat,
  - wildlife habitat,
  - rare and endangered species support,
  - migration of aquatic organisms, spawning, reproduction, and/or early development support, and
  - contact and noncontact water recreation
- The Los Angeles Water Board is a partner in the Southern California Wetlands Recovery Project (WRP), which is a broad-based collaboration by federal and state public agencies, non-profits, scientists, and local communities working cooperatively to acquire and restore rivers, streams, and wetlands in coastal Southern California. Using a non-regulatory approach and an ecosystem-based perspective, the WRP works together to identify wetland acquisition and restoration priorities, identify funding to undertake these

AL9-1

AL9-2

AL9-3

projects, and provide technical assistance to project proponents. The WRP recognizes the Ballona Wetlands as a remnant of a large river valley estuary now dissected and fragmented by extensive development in the Los Angeles coastal plain. The proposed restoration targets in the DEIR are based in part on historical ecology work supported by the WRP as part of a larger regional strategy to restore wetlands in coastal southern California. Restoration of this area is a high priority for the WRP.

AL9-3  
cont.

- The Los Angeles Water Board does not support the No Action Alternative as this will not meet the TMDL load allocations as described below. The Los Angeles Water Board does support an alternative that maximizes achievement of the TMDL load allocations.

AL9-4

### **Consistency with 2012 Total Maximum Daily Load (TMDL) for Sediment and Invasive Exotic Vegetation for the Ballona Creek Wetlands**

The DEIR contains a discussion of the 2012 Ballona Wetlands TMDL in Section 3.9, Hydrology and Water Quality. The United States Environmental Protection Agency established the TMDL to address impairments caused by habitat alteration, reduced tidal flushing, hydromodification, and exotic vegetation in the Ballona Wetlands. The TMDL found that the critical stressors causing these impairments are legacy sediment disposal, which has raised the elevation of the area and created conditions that support exotic vegetation. The TMDL sets numeric targets for wetland habitat acreage, tidal elevation, and exotic vegetation to achieve an ecologically functioning wetland that will support the designated beneficial uses. The TMDL includes a load allocation for legacy sediment removal based on the linkage between elevation, tidal inundation, and habitat composition in order to achieve the numeric targets. Recognizing that attainment of beneficial uses requires not just the removal of legacy sediment, but the restoration of adequate wetland conditions, the TMDL includes alternative load allocations for wetland habitat acreages and tidal elevations equal to the numeric targets.

AL9-5

Tables 3.9-5 and 3.9-6 in the DEIR compare the TMDL load allocations and alternative load allocations with the proposed sediment removal quantities and wetland habitat acreages for the three alternatives for the Project. Neither the sediment removal quantities nor the habitat acreages for the three alternatives match the TMDL load allocations. The Los Angeles Water Board recognizes that the goals of the Project and goals the TMDL are the same – to remove the habitat alteration, reduced tidal flushing, hydromodification, and exotic vegetation impairments - and that there may be new information available since TMDL adoption that would explain the differences in sediment removal quantities and habitat acreages. For example, the TMDL did not contemplate removal of the concrete levees along Ballona Creek, as proposed for Project Alternatives 1 and 2, when calculating the area available for restoration or conducting the analysis linking legacy sediment with tidal inundation and habitat composition. New restoration possibilities such as removal of concrete levees could achieve the goals of the TMDL, remove impairments, and restore beneficial uses by improving the connectivity between Ballona Creek and its wetlands, while resulting in different sediment removal quantities and habitat acreages than the TMDL load allocations.

**Recommendation:** Please provide more explanation in section 3.9 for why the Project sediment removal quantities and wetland habitat acreages for the three alternatives differ from the TMDL load allocations, including any new information or restoration possibilities not considered at the time of TMDL adoption.

### Dissolved Oxygen Performance Goals for Tidal Channels

On pdf Page 112 of 506 in Appendix B-Part 4, Table 5 indicates as a performance goal for tidal channels that "Dissolved oxygen levels should remain within healthy levels for fish and other aquatic organisms; levels should not drop below 2 parts per million for extended periods." This goal is contrary to the water quality objective for dissolved oxygen in the Los Angeles Water Board's Basin Plan, which states, "At a minimum..., the **mean** annual dissolved oxygen concentration of **all** waters shall be greater than 7 mg/l, and no single determination shall be less than 5.0 mg/l, except where natural conditions cause lesser conditions."

AL9-6

**Recommendation:** Please correct the dissolved oxygen performance goal for tidal channels to be consistent with the Basin Plan objective.

### Groundwater Beneficial Uses


Table ES-1, Summary of Impacts and Mitigation Measures for Alternative 1 on Page ES-40, describes the environmental impact to the groundwater basin from the expected increase in the extent of tidal inundation, which could increase infiltration of salt into the groundwater underlying the wetlands, as less than significant. The discussion of this determination for Alternative 1 on page 3.9-54, as well as for Alternatives 2 and 3 on pages 3.9-73, and 3.9-80, states that the groundwater in this area is not used for domestic or municipal supply. The Los Angeles Water Board's Basin Plan includes municipal water supply as an existing designated beneficial use for the Santa Monica Basin, which underlies the restoration area.

AL9-7

**Recommendation:** Please acknowledge the existing municipal water supply beneficial use for the underlying groundwater basin. Provide additional justification in support of a less than significant impact to the municipal water supply beneficial use of the groundwater basin from the expected increase in the extent of tidal inundation resulting in advancement of sea water intrusion.

The Los Angeles Water Board appreciates the opportunity to review the DEIR. If you have any questions, please contact Shirley Birosik at (213) 576-6679, [shirley.birosik@waterboards.ca.gov](mailto:shirley.birosik@waterboards.ca.gov) or Jenny Newman at (213) 576-6691, [jenny.newman@waterboards.ca.gov](mailto:jenny.newman@waterboards.ca.gov).

Sincerely,

  
Samuel Unger, PE  
Executive Officer

cc: Jean Prijatel, United States Environmental Protection Agency  
Erica Yelensky, United States Environmental Protection Agency



## Letter AL9: Los Angeles Regional Water Quality Control Board

- AL9-1 The Los Angeles Water Board's support for full restoration is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.
- AL9-2 The Draft EIS/EIR discloses and discusses beneficial uses as designated in the Basin Plan. See, e.g., Section 3.9.2.2 regarding the environmental setting for purposes of the analysis of water quality, including Table 3.9-1, Beneficial Uses of Key Surface Water Features in the Study Area. See also Section 3.9.3.1, the regulatory setting, which discusses Clean Water Act Section 303 Water Quality Standards and provisions relating to the designation of beneficial uses, and specifically the Water Quality Control Plan for the Los Angeles Region (Basin Plan). The potential for the Project or an alternative to impact beneficial uses also is analyzed in the Draft EIS/EIR. See Section 3.9.6, *Direct and Indirect Impacts*.
- AL9-3 CDFW is also a partner in the Southern California Wetlands Recovery Project (WRP) and agrees with the characterization in this comment of the proposed restoration as part of a larger regional strategy to restore wetlands in coastal southern California. The Draft EIS/EIR describes the contrast between the historical and current contexts in Section ES.1, *Background and Project Overview*, and in Section 1.2.2, *The Project: Restoration of the Ballona Reserve*.
- AL9-4 The stated support for a restoration alternative that maximizes achievement of the TMDL load allocations is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.
- AL9-5 As noted by the Los Angeles Water Board, Draft EIS/EIR Section 3.9 contains a discussion of the 2012 Ballona Wetlands TMDL, which addresses impairments in the Ballona Reserve caused by habitat alteration, reduced tidal flushing, hydromodification, and exotic vegetation. The TMDL includes measures identified to comply with the conditions of the TMDL; includes numerical targets for sediment removal, habitat acreage, changes in tidal elevation, and exotic vegetation removal; and recognizes that new information could become available that would influence the numerical targets. CDFW agrees with the Board that the goals of the proposed restoration and the TMDL are the same.

The TMDL's and Draft EIS/EIR's numerical targets differ primarily with regard to habitat acreage and sediment removal volumes. The establishment of the numerical targets included in the 2012 TMDL were based on the existing information at that time. The TMDL alternative load allocations were developed by applying the historic ecology habitat composition and proportions to the existing area of the Ballona Reserve. The acreages do not consider the constraints of developing a feasible project; therefore, the Project's habitat acreages do not match the TMDL load allocation. For example, in creating a large and continuous habitat, a preference noted





in the TMDL, the Ballona Creek levees need to be removed. However, to be feasible, a restoration project needs to provide at least equal flood protection, which is why the Area A and Culver Boulevard levees are included in the design. The levees create more upland habitat, which reduces the potential amount of wetland that could be created at the site compared to the goal expressed in the TMDL.

As another example, the TMDL states that in future scenarios accounting for sea-level rise, the “removed” sediment could be stored on-site for beneficial replenishment of sediment loss in Ballona Creek Wetlands. The Project design takes into account future climate change by creating a long sloping transition from the marsh up to the levee in Area A. This slope will provide room for marsh migration with sea-level rise, allowing marsh to continue at the site into the future. However, while more transition and upland habitat are beneficial for future marsh establishment, the design reduces the acreage of vegetated marsh post-restoration. Although the Project quantities do not rely solely on sediment or habitat load allocations to meet the individual load allocations, the combined achievements provide the best set of alternatives that achieve both goals for the site conditions and for the sustainable, long-term future of the site.

In addition, according to the USEPA (2012), due to the construction and operation of the Ballona Creek Flood Control channel, conversion of saltmarsh to agricultural areas in Area B, construction of Culver Boulevard through Area B, and the deposition of dredged and fill sediment on Area A during the construction of the Marina del Rey it is not feasible to divide responsibilities for removal of the legacy sediments among the cooperative parties including:

- Caltrans
- U.S. Army Corp of Engineers
- California Department of Fish and Game
- State Lands Commission
- Los Angeles County (Flood Control District, Beaches and Harbors)
- The Southern California Gas Company

Furthermore, the USEPA (2012) states that though the total estimated volume of legacy sediment volume placed in the Ballona wetlands between the 1870s and 2005 is 3.1 million cubic yards it recognizes there are inherent assumptions and uncertainties with these estimates since data associated with sediment loading from each historic anthropogenic activity (e.g., railroad construction, agriculture, Marina del Rey excavation) do not exist and is very difficult to determine.



- AL9-6 The performance goal for dissolved oxygen, as reported in Draft EIS/EIR Appendix B3, has been corrected for consistency with the Basin Plan.<sup>41</sup> See Final EIR Section 3.4.
- AL9-7 The Basin Plan includes municipal water supply as an existing designated beneficial use for the Santa Monica Basin groundwater basin, which, as mentioned in Draft EIS/EIR Section 3.9.2.2, is comprised of five sub-basins with the Coastal sub-basin underlying the Ballona Reserve.

As of 2011, the City of Santa Monica, an entity that manages water resources in the Santa Monica Basin, extracted groundwater from 10 active wells, none of which are located in the Coastal sub-basin.<sup>42</sup> As the City explains in its Urban Water Management Plan, “[g]roundwater extracted from the Santa Monica Basin and its sub-basins contain various levels of contaminants specific to the basin which include, Total Dissolved Solids (TDS), Nitrate, Volatile Organic Compounds (VOCs), and methyl tertiary butyl ether (MTBE). Overall TDS concentrations in the Santa Monica Basin are typically high and exceed the secondary maximum contaminant level (MCL) of 500 mg/l in all three of the sub-basins.”<sup>43</sup> Specific to the Coastal sub-basin, the City states in its Sustainable Water Master Plan that the Coastal sub-basin “has not been utilized as a groundwater source to date due to salt water intrusion, and the high cost of additional treatment that would be required to utilize this water source.”<sup>44</sup> Groundwater data from the Draft Environmental Impact Report for the Village at Playa Vista (2003), collected in the immediate vicinity of the Ballona Reserve, are consistent with recent City of Santa Monica findings, showing that the TDS levels in the Coastal sub-basin are above municipal drinking water standards, and in many cases far above.<sup>45</sup> Also consistent with the City of Santa Monica’s determination, is a 1974 report by the State Oil and Gas Supervisor stating that in the 1930s water wells were abandoned in the Ballona Reserve area when seawater intrusion ruined the quality of groundwater.<sup>46</sup>

Prior to the abandonment of these groundwater wells, a tidally influenced saltwater marsh and alkali meadow environment existed while groundwater pumping for

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<sup>41</sup> California Water Boards, Los Angeles – Region 4. Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties. Chapter 3, Water Quality Objectives. Available online: [https://www.waterboards.ca.gov/losangeles/water\\_issues/programs/basin\\_plan/2019/chap3updatedMay2019.pdf](https://www.waterboards.ca.gov/losangeles/water_issues/programs/basin_plan/2019/chap3updatedMay2019.pdf). May 6, 2019.

<sup>42</sup> City of Santa Monica, 2016. “2015 Urban Water Management Plan” June 2016. p. 2-13. Accessed online: [https://www.smgov.net/uploadedFiles/Departments/Public\\_Works/Water/2015\\_UWMP\\_Final\\_June\\_2016.pdf](https://www.smgov.net/uploadedFiles/Departments/Public_Works/Water/2015_UWMP_Final_June_2016.pdf).

<sup>43</sup> Ibid., pg. 3-2.

<sup>44</sup> City of Santa Monica, 2014. “Sustainable Water Master Plan” December 2014. p. 5-4. Accessed online: [https://www.smgov.net/uploadedFiles/Departments/Public\\_Works/Water/SWMP.pdf](https://www.smgov.net/uploadedFiles/Departments/Public_Works/Water/SWMP.pdf).

<sup>45</sup> City of Los Angeles, 2003a. EIR No. ENV-2002-6129-EIR. Village at Playa Vista Draft EIR Section IV.C.II (Section 2.2.2). Available online: [https://planning.lacity.org/eir/PlayaVista/PlayaVistaDEIR/DISK1/text/Book\\_1/Book1.pdf](https://planning.lacity.org/eir/PlayaVista/PlayaVistaDEIR/DISK1/text/Book_1/Book1.pdf), August 2003. See also Appendix D-3 to the Village at Playa Vista Draft EIR (City of Los Angeles, 2003b): Camp Dresser & McKee, Inc., “Third Quarter 2002 Groundwater Monitoring and Progress Report,” October 15, 2002, (download size 28mb)

<sup>46</sup> California Division of Oil and Gas (DOGGR), 1975. “60th Annual Report of the State Oil and Gas Supervisor, Report No. PRO6, 1974.” Pg. 24. Accessed online: [ftp://ftp.consrv.ca.gov/pub/oil/annual\\_reports/1974/1974.pdf](ftp://ftp.consrv.ca.gov/pub/oil/annual_reports/1974/1974.pdf).



municipal use occurred in the Ballona Reserve area.<sup>47,48,49</sup> Therefore, although implementation of Alternative 1, 2, or 3 would increase the tidal prism with the potential for brackish water to migrate inland, as mentioned in Draft EIS/EIR Sections 3.9.6.1, 3.9.6.2, and 3.9.6.3, such potential inland migration of brackish water would be consistent with conditions in the early 1900s when a municipal groundwater source and tidal influence were both present.

It is worth noting that one significant difference from the early 1900s is that groundwater pumping does not, and will not, occur within the Ballona Reserve. Therefore, stress on the groundwater basin that occurred during the 1930s would not occur within the Ballona Reserve under Project conditions or as a result of any of the Alternatives. Additionally, Alternatives 1, 2, and 3 would help achieve beneficial uses that are currently impaired, such as restored estuarine habitat; increased migration opportunity for aquatic organisms; increased habitat for rare, threatened and endangered species; increased non-contact water recreation; increased aquatic habitat for spawning, reproduction, and/or early development; increased wetland habitat; and increased wildlife habitat.<sup>50</sup> See Basin Plan Tables 2-1 and 2-2a. See also Response O11-252 describing the Bellflower aquiclude, the deeper Ballona aquifer, and deepest Silverado aquifer.

Given the information above regarding tidal flows and a municipal groundwater source co-occurring in the early 1900s and no future groundwater pumping at the Ballona Reserve, CDFW believes that implementation of Alternative 1, 2, or 3 would result in a less-than-significant impact to the municipal water supply beneficial use of the groundwater basin.

## 2.3.4 Responses to Native American Community

The following pages contain the comment letters received from the native American community and CDFW's associated responses.

### **Letter T1: Robert Dorame, Gabrielino-Tongva Indians of California**

Mr. Dorame is Tribal Chair of the Gabrielino-Tongva Indians of California. He provided oral comments on the Draft EIS/EIR during the November 8, 2017, Public Comments Hearing. See Comments H7-1 through H7-4 in the hearing transcript. Responses are provided in Final EIR Section 2.3.8.

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<sup>47</sup> Dark et. al, 2011. "Historical Ecology of the Ballona Creek Watershed, Southern California Coastal Water Research Project, Technical Report #671." pp. 25–26.

<sup>48</sup> Jacobs et al., 2010. "Classification of California Estuaries Based on Natural Closure Patterns: Templates for Restoration and Management, Technical Report 619.a." Published August 2010, Revised August 2011.

<sup>49</sup> DOGGR, 1975. pp. 22–24.

<sup>50</sup> U.S. Environmental Protection Agency Region IX, 2012, "Ballona Creek Wetlands Total Maximum Daily Loads for Sediment and Invasive Exotic Vegetation" March 26, 2012.

## Comment Letter T2

-----Original Message-----

From: Johntommy Rosas [mailto:tattnlaw@gmail.com]

Sent: Thursday, October 26, 2017 4:50 PM

To: Rick Mayfield <Rick.Mayfield@wildlife.ca.gov>; Ed Pert <Ed.Pert@wildlife.ca.gov>; Swenson, Daniel P CIV USARMY CESPL (US) <Daniel.P.Swenson@usace.army.mil>; Castanon, David J CIV USARMY CESPL (US)

<David.J.Castanon@usace.army.mil>; McDonald, A Meg CIV USARMY CESPL (US) <Alison.M.Mcdonald@usace.army.mil>

Subject: Re: [EXTERNAL] Re: TATTN FORMAL REQUEST FOR 90 DAY COMMENT TIMELINE AND PUBLIC HEARING BWER EIS

Thank you to CDFW/USACOE folks for extending the comment time period for the BWER DEIS/DEIR - I appreciate it and with the proper time it will allow me and others to have the appropriate time to respond in more detail-

1. I don't think the new CDFW is a compliant notice as it has new info -for instance, the CDFW/ LA COUNTY PW /LAFCD is now proponents as declared in the new CDFW notice - it didn't state which alternative is their choice - T2-1
2. it's just odd to make that claim before the process is complete - it's like a developer claim and inappropriate for the CEQA lead agency to make that claim and as well for a responsible agency LA COUNTY LAFCD to make the claim as well- T2-2
3. I request the notice be reviewed for compliance and please send that determination to me by email- T2-3
4. It also is more apparent that the alt 1 is a flood control/ tsunami levee deterrent for playa vista dev.- since the only beneficial use or end result is to have the tsunami breakwater disguised as a "restoration " project - just my 2 bits we have more time so that's good- Blocked<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=150793&inline> T2-4

thanks again -jt

On Fri, Oct 20, 2017 at 12:23 PM, Johntommy Rosas <tattnlaw@gmail.com <mailto:tattnlaw@gmail.com> > wrote:

ok thanks

I didnt get it from the fed reg notices

I appreciate you sending me the update and link

On Fri, Oct 20, 2017 at 12:09 PM, Swenson, Daniel P CIV USARMY CESPL (US) <Daniel.P.Swenson@usace.army.mil <mailto:Daniel.P.Swenson@usace.army.mil> > wrote:



## Comment Letter T2

It was posted on October 6, both in the federal register and also via public notice.

The public notice is here:

Blocked[http://www.spl.usace.army.mil/Portals/17/Users/117/09/1909/SPL-2010-1155\\_Ballona\\_PN.pdf?ver=2017-10-03-141702-280](http://www.spl.usace.army.mil/Portals/17/Users/117/09/1909/SPL-2010-1155_Ballona_PN.pdf?ver=2017-10-03-141702-280)  
<Blocked[http://www.spl.usace.army.mil/Portals/17/Users/117/09/1909/SPL-2010-1155\\_Ballona\\_PN.pdf?ver=2017-10-03-141702-280](http://www.spl.usace.army.mil/Portals/17/Users/117/09/1909/SPL-2010-1155_Ballona_PN.pdf?ver=2017-10-03-141702-280)>

-----Original Message-----

From: Johntommy Rosas [mailto:tattnlaw@gmail.com <mailto:tattnlaw@gmail.com> ]  
Sent: Friday, October 20, 2017 11:44 AM  
To: Swenson, Daniel P CIV USARMY CESPL (US) <Daniel.P.Swenson@usace.army.mil  
<mailto:Daniel.P.Swenson@usace.army.mil> >  
Subject: Re: [EXTERNAL] Re: TATTN FORMAL REQUEST FOR 90 DAY COMMENT TIMELINE AND PUBLIC HEARING BWER EIS

Daniel  
you last wrote the notice for the bwer deis from usacoe would be posted  
on oct 6 - its now oct 20 -  
do you have a new time frame when it will be noticed ?  
thanks

On Thu, Sep 28, 2017 at 3:58 PM, Swenson, Daniel P CIV USARMY CESPL (US)  
<Daniel.P.Swenson@usace.army.mil <mailto:Daniel.P.Swenson@usace.army.mil>  
<mailto:Daniel.P.Swenson@usace.army.mil <mailto:Daniel.P.Swenson@usace.army.mil> > > wrote:

Oct. 6

-----Original Message-----

From: Johntommy Rosas [mailto:tattnlaw@gmail.com <mailto:tattnlaw@gmail.com>  
<mailto:tattnlaw@gmail.com <mailto:tattnlaw@gmail.com> > ]  
Sent: Thursday, September 28, 2017 3:50 PM  
To: Swenson, Daniel P CIV USARMY CESPL (US) <Daniel.P.Swenson@usace.army.mil  
<mailto:Daniel.P.Swenson@usace.army.mil> <mailto:Daniel.P.Swenson@usace.army.mil  
<mailto:Daniel.P.Swenson@usace.army.mil> > >  
Subject: Re: [EXTERNAL] Re: TATTN FORMAL REQUEST FOR 90 DAY COMMENT TIMELINE AND PUBLIC HEARING BWER EIS

ok thanks for the update and your response-  
when do you think the USACOE will issue the  
NOA for the BWER EIS/EIR ?

On Thu, Sep 28, 2017 at 3:31 PM, Swenson, Daniel P CIV USARMY CESPL (US)  
<Daniel.P.Swenson@usace.army.mil <mailto:Daniel.P.Swenson@usace.army.mil>  
<mailto:Daniel.P.Swenson@usace.army.mil <mailto:Daniel.P.Swenson@usace.army.mil> >  
<mailto:Daniel.P.Swenson@usace.army.mil <mailto:Daniel.P.Swenson@usace.army.mil>  
<mailto:Daniel.P.Swenson@usace.army.mil <mailto:Daniel.P.Swenson@usace.army.mil> > > > wrote:

Mr. Rosas,

Thank you for submitting your request for an extension of the comment period for the Ballona Wetlands Restoration Project DEIS/EIR. We will fully consider your request, and we will respond later during the public comment period about our decision whether to extend it.

T2-5

Sincerely,

Daniel P Swenson  
Chief, LA & San Bernardino Counties Section  
North Coast Branch, Regulatory Division  
Los Angeles District, U.S. Army Corps of Engineers  
daniel.p.swenson@usace.army.mil <mailto:daniel.p.swenson@usace.army.mil>

<mailto:daniel.p.swenson@usace.army.mil <mailto:daniel.p.swenson@usace.army.mil> >  
<mailto:daniel.p.swenson@usace.army.mil <mailto:daniel.p.swenson@usace.army.mil>  
<mailto:daniel.p.swenson@usace.army.mil <mailto:daniel.p.swenson@usace.army.mil> > >

Office: (213) 452-3414 <tel:%28213%29%20452-3414> <tel:%28213%29%20452-3414>  
<tel:%28213%29%20452-3414>

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Assist us in better serving you! Please complete our brief customer survey, located at the following link:

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<Blockedhttp://corpsmapu.usace.army.mil/cm\_apex/f?p=regulatory\_survey> > >

-----Original Message-----

From: John Tommy Rosas [mailto:tattnlaw@gmail.com <mailto:tattnlaw@gmail.com>  
<mailto:tattnlaw@gmail.com <mailto:tattnlaw@gmail.com> > <mailto:tattnlaw@gmail.com  
<mailto:tattnlaw@gmail.com> <mailto:tattnlaw@gmail.com <mailto:tattnlaw@gmail.com> > > ]

Sent: Wednesday, September 27, 2017 11:32 PM

To: Swenson, Daniel P CIV USARMY CESPL (US) <Daniel.P.Swenson@usace.army.mil  
<mailto:Daniel.P.Swenson@usace.army.mil> <mailto:Daniel.P.Swenson@usace.army.mil  
<mailto:Daniel.P.Swenson@usace.army.mil> > <mailto:Daniel.P.Swenson@usace.army.mil  
<mailto:Daniel.P.Swenson@usace.army.mil> <mailto:Daniel.P.Swenson@usace.army.mil



<mailto:Daniel.P.Swenson@usace.army.mil> > > >; Rick Mayfield <Rick.Mayfield@wildlife.ca.gov  
<mailto:Rick.Mayfield@wildlife.ca.gov> <mailto:Rick.Mayfield@wildlife.ca.gov> <mailto:Rick.Mayfield@wildlife.ca.gov> >  
<mailto:Rick.Mayfield@wildlife.ca.gov> <mailto:Rick.Mayfield@wildlife.ca.gov> <mailto:Rick.Mayfield@wildlife.ca.gov>  
<mailto:Rick.Mayfield@wildlife.ca.gov> > > >; Brody, Richard@Wildlife <Richard.Brody@wildlife.ca.gov  
<mailto:Richard.Brody@wildlife.ca.gov> <mailto:Richard.Brody@wildlife.ca.gov> <mailto:Richard.Brody@wildlife.ca.gov>  
> <mailto:Richard.Brody@wildlife.ca.gov> <mailto:Richard.Brody@wildlife.ca.gov>  
<mailto:Richard.Brody@wildlife.ca.gov> <mailto:Richard.Brody@wildlife.ca.gov> > > >; Castanon, David J CIV USARMY  
CESPL (US) <David.J.Castanon@usace.army.mil> <mailto:David.J.Castanon@usace.army.mil>  
<mailto:David.J.Castanon@usace.army.mil> <mailto:David.J.Castanon@usace.army.mil> >  
<mailto:David.J.Castanon@usace.army.mil> <mailto:David.J.Castanon@usace.army.mil>  
<mailto:David.J.Castanon@usace.army.mil> <mailto:David.J.Castanon@usace.army.mil> > > >

Subject: [EXTERNAL] Re: TATTN FORMAL REQUEST FOR 90 DAY COMMENT TIMELINE AND  
PUBLIC HEARING BWER EIS

USACOE SWENSON- CASTANON

I am changing my request I made previously in this email in which you didnt respond to -  
here are the reasons grounds to justify the TATTN request -

1. the total BWER eis eir is 8105 pages
  2. divided by the 60 days comment period is 135.5 pages a day to review and respond to
  3. at 90 days its at 90 pages a day to review and respond to
  4. a reasonable amount is APPX 30 pages a day for experts to review and respond to
  5. thats 270 days at 30 pages a day to review and respond to thats 9 months
  6. the BWER EIS EIR has many cited documents to review as references which arent in the eis
- eir which also requires locating and getting accessed so that isnt in my math yet but you can see the issues with it -as  
that fact requires additional time
7. TATTN is requesting now at least 120 days and should be appx 200 days -

please respond in a timely manner to this updated request by TATTN -  
thanks jt

T2-6

On Wed, Jun 7, 2017 at 12:22 PM, Johntommy Rosas <tattnlaw@gmail.com  
<mailto:tattnlaw@gmail.com> <mailto:tattnlaw@gmail.com> <mailto:tattnlaw@gmail.com> >  
<mailto:tattnlaw@gmail.com> <mailto:tattnlaw@gmail.com> <mailto:tattnlaw@gmail.com>  
<mailto:tattnlaw@gmail.com> > > > <mailto:tattnlaw@gmail.com> <mailto:tattnlaw@gmail.com>  
<mailto:tattnlaw@gmail.com> <mailto:tattnlaw@gmail.com> > <mailto:tattnlaw@gmail.com>  
<mailto:tattnlaw@gmail.com> <mailto:tattnlaw@gmail.com> <mailto:tattnlaw@gmail.com> > > > wrote:

Daniel Swenson,  
TATTN by this email formally requests from USACOE a 90 day comment timeline and a  
public hearing for the BWER DRAFT EIS/EIR as allowed and permitted under NEPA.

1. TATTN is requesting this 90 day time frame because of the numerous tribal resources  
involved and the possible impacts.
2. TATTN also requests the 90 days because of the anticipated large amount of EIS /EIR  
material to review and respond on.
3. TATTN requests the 90-day timeline and hearing request be approved asap so it can  
be a part of the federal register notice when the BWER DRAFT EIS/EIR is completed.

T2-7



4. TATTN requests or suggests that the hearing is held locally and that it occur after 30 days to 60 days of the release of the BWER DRAFT EIS/EIR.

↑ T2-7  
1 cont.

Thank you, jt

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<Blockedhttp://BlockedBlockedwww.spd.usace.army.mil/Portals/13/docs/regulatory/qmsref/eis/12509.1.1.pdf  
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<Blockedhttp://Blockedwww.spd.usace.army.mil/Portals/13/docs/regulatory/qmsref/eis/12509.1.1.pdf>  
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<Blockedhttp://BlockedBlockedwww.spd.usace.army.mil/Portals/13/docs/regulatory/qmsref/eis/12509.1.1.pdf  
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<Blockedhttp://www.spd.usace.army.mil/Portals/13/docs/regulatory/qmsref/eis/12509.1.1.pdf> > > >

//////////

§1506.10 Timing of agency action.

(a) The Environmental Protection Agency shall publish a notice in the Federal Register each week of the environmental impact statements filed during the preceding week. The minimum time periods set forth in this section shall be calculated from the date of publication of this notice.

(b) No decision on the proposed action shall be made or recorded under §1505.2 by a Federal agency until the later of the following dates:

(1) Ninety (90) days after publication of the notice described above in paragraph (a) of this section for a draft environmental impact statement.

(2) Thirty (30) days after publication of the notice described above in paragraph (a) of this section for a final environmental impact statement.

An exception to the rules on timing may be made in the case of an agency decision which is subject to a formal internal appeal. Some agencies have a formally established appeal process which allows other agencies or the public to take appeals on a decision and make their views known, after publication of the final environmental impact statement. In such cases, where a real opportunity exists to alter the decision, the decision may be made and recorded at the same time the environmental impact statement is published. This means that the period for appeal of the decision and the 30-day period prescribed in paragraph (b)(2) of this section may run concurrently. In such cases the environmental impact statement shall explain the timing and the public's right of appeal. An agency engaged in rulemaking under the Administrative Procedure Act or other statute for the purpose of protecting the public health or safety, may waive the time period in paragraph (b)(2) of this section and publish a decision on the final rule



simultaneously with publication of the notice of the availability of the final environmental impact statement as described in paragraph (a) of this section.

(c) If the final environmental impact statement is filed within ninety (90) days after a draft environmental impact statement is filed with the Environmental Protection Agency, the minimum thirty (30) day period and the minimum ninety (90) day period may run concurrently. However, subject to paragraph (d) of this section agencies shall allow not less than 45 days for comments on draft statements.

(d) The lead agency may extend prescribed periods. The Environmental Protection Agency may upon a showing by the lead agency of compelling reasons of national policy reduce the prescribed periods and may upon a showing by any other Federal agency of compelling reasons of national policy also extend prescribed periods, but only after consultation with the lead agency. (Also see §1507.3(d).) Failure to file timely comments shall not be a sufficient reason for extending a period. If the lead agency does not concur with the extension of time, EPA may not extend it for more than 30 days. When the Environmental Protection Agency reduces or extends any period of time it shall notify the Council.

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The minimum time periods set forth 40 CFR 1506.10(b),(c), and (d)

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<Blockedhttp://Blockedwww.ecfr.gov/cgi-bin/text-idx?SID=4da78a0cd20a1028818af760c2f867aa&mc=true&node=pt40.37.1506&rgn=div5#se40.37.1506\_110> >  
<Blockedhttp://BlockedBlockedwww.ecfr.gov/cgi-bin/text-idx?SID=4da78a0cd20a1028818af760c2f867aa&mc=true&node=pt40.37.1506&rgn=div5#se40.37.1506\_110  
<Blockedhttp://Blockedwww.ecfr.gov/cgi-bin/text-idx?SID=4da78a0cd20a1028818af760c2f867aa&mc=true&node=pt40.37.1506&rgn=div5#se40.37.1506\_110>  
<Blockedhttp://Blockedwww.ecfr.gov/cgi-bin/text-idx?SID=4da78a0cd20a1028818af760c2f867aa&mc=true&node=pt40.37.1506&rgn=div5#se40.37.1506\_110  
<Blockedhttp://www.ecfr.gov/cgi-bin/text-idx?SID=4da78a0cd20a1028818af760c2f867aa&mc=true&node=pt40.37.1506&rgn=div5#se40.37.1506\_110> > > > are calculated from the date EPA publishes the Notice of Availability in the Federal Register. Time periods do not end on the weekends or federal holidays, and will be extended to the next working day.

\* Comment periods for all draft EISs shall extend for 45 calendar days

\* unless the lead agency extends the prescribed period or a reduction of the period has been granted.

--

JOHN TOMMY ROSAS



Fowarding as a public comment

From: Johntommy Rosas [mailto:tattnlaw@gmail.com]

Sent: Tuesday, November 07, 2017 3:42 PM

To: Swenson, Daniel P SPL <daniel.p.swenson@usace.army.mil>; Brody, Richard@Wildlife <Richard.Brody@wildlife.ca.gov>; David Castanon <david.j.castanon@usace.army.mil>

Subject: RE ILLEGAL HEARING UNDER THE CFR'S TATTN OBJECTS TO THE Date: Wednesday, November 8, 2017 Time: 6:00 p.m. – 8:30 p.m. Place: Burton Chase Park – Community Center 13650 Mindanao Way Marina del Rey, CA 90292

## 40 CFR 25.5 - Public hearings.

- [eCFR](#)
- [Authorities \(U.S. Code\)](#)
- [What Cites Me](#)

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### § 25.5 Public hearings.

**(a)Applicability.** Any non-adjudicatory public hearing, whether mandatory or discretionary, under the three [Acts](#) shall meet the following minimum requirements. These requirements are subordinate to any more stringent requirements found elsewhere in this chapter or otherwise imposed by EPA, [State](#), interstate, or substate agencies. Procedures developed for adjudicatory hearings required by this chapter shall be consistent with the public participation objectives of this part, to the extent practicable.

**(b)Notice.** A notice of each hearing shall be [well](#) publicized, and shall also be mailed to the appropriate portions of the list of interested and affected parties required by [§ 25.4\(b\)\(5\)](#). Except as otherwise specifically provided elsewhere in this chapter, these actions must occur at least 45 days prior to the date of the hearing. However, where EPA determines that there are no substantial documents which must be reviewed for effective hearing participation and that there are no complex or controversial matters to be addressed by the hearing, the notice requirement may be reduced to no less than 30 days. EPA may further reduce or waive the hearing notice requirement in emergency situations where EPA determines that there is an imminent danger to public health. To the extent not duplicative, the agency holding the hearing shall also provide informal notice to all interested [persons](#) or organizations that request it. The notice shall identify the matters to be discussed at the hearing and shall include or be accompanied by a discussion of the agency's tentative determination on major issues (if any), information on the availability of a bibliography of relevant materials (if deemed appropriate), and procedures for obtaining further information. Reports, documents and data relevant to

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the discussion at the public hearing shall be available to the public at least 30 days before the hearing. Earlier availability of materials relevant to the hearing will further assist public participation and is encouraged where possible.

**(c)Locations and time.** Hearings must be held at times and places which, to the maximum extent feasible, facilitate attendance by the public. Accessibility of public [transportation](#), and use of evening and weekend hearings, should be considered. In the case of actions with Statewide interest, holding more than one hearing should be considered.

**(d)Scheduling presentations.** The agency holding the hearing shall schedule witnesses in advance, when necessary, to ensure maximum participation and allotment of adequate time for all speakers. However, the agency shall reserve some time for unscheduled testimony and may consider reserving blocks of time for major categories of witnesses.

**(e)Conduct of hearing.** The agency holding the hearing shall inform the audience of the issues involved in the decision to be made, the considerations the agency will take into account, the agency's tentative determinations (if any), and the information which is particularly solicited from the public. The agency should consider allowing a question and answer period. Procedures shall not unduly inhibit free expression of views (for example, by onerous written statement requirements or qualification of witnesses beyond minimum identification).

**(f)Record.** The agency holding the hearing shall prepare a transcript, recording or other complete record of public hearing proceedings and make it available at no more than cost to anyone who requests it. A copy of the record shall be available for public review.

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cont.

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## 40 CFR 51.102 - Public hearings.

- [eCFR](#)
- [Authorities \(U.S. Code\)](#)
- [What Cites Me](#)

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### § 51.102 Public hearings.

**(a)** Except as otherwise provided in [paragraph \(c\)](#) of this section and within the 30 day notification period as required by [paragraph \(d\)](#) of this section, [States](#) must provide notice, provide the opportunity to submit written comments and allow the public the opportunity to request a public hearing. The [State](#) must hold a public hearing or provide the public the opportunity to request a public hearing. The notice announcing the 30 day notification period must include the date, place and time of the public hearing. If the [State](#) provides the public the opportunity to request a public hearing and a request is received the [State](#) must hold the scheduled hearing or schedule a public hearing (as required by [paragraph \(d\)](#) of this section). The [State](#) may cancel the public hearing through a method it identifies if no request for a public hearing is received during the 30 day notification period and the original notice announcing the 30 day notification period clearly states: *If no request for a public hearing is received the hearing will be cancelled; identifies the method and time for announcing that the hearing has been cancelled; and*



*provides a contact phone number for the public to call to find out if the hearing has been cancelled. These requirements apply for adoption and submission to [EPA](#) of:*

- (1)** Any [plan](#) or revision of it required by [§ 51.104\(a\)](#).
  - (2)** Any individual [compliance schedule](#) under ( [§ 51.260](#)).
  - (3)** Any revision under [§ 51.104\(d\)](#).
- (b)** Separate hearings may be held for [plans](#) to implement primary and secondary standards.
- (c)** No hearing will be required for any change to an increment of progress in an approved individual [compliance schedule](#) unless such change is likely to cause the source to be unable to comply with the final compliance date in the schedule. The requirements of [§§ 51.104](#) and 51.105 will be applicable to such schedules, however.
- (d)** Any hearing required by [paragraph \(a\)](#) of this section will be held only after reasonable notice, which will be considered to include, at least 30 days prior to the date of such hearing(s):
- (1)** Notice given to the public by prominent advertisement in the area affected announcing the date(s), time(s), and place(s) of such hearing(s);
  - (2)** Availability of each proposed [plan](#) or revision for public [inspection](#) in at least one location in each [region](#) to which it will apply, and the availability of each [compliance schedule](#) for public [inspection](#) in at least one location in the [region](#) in which the [affected source](#) is located;
  - (3)** Notification to the [Administrator](#) (through the appropriate Regional Office);
  - (4)** Notification to each local air pollution control agency which will be significantly impacted by such [plan](#), schedule or revision;
  - (5)** In the case of an interstate [region](#), notification to any other [States](#) included, in whole or in part, in the [regions](#) which are significantly impacted by such [plan](#) or schedule or revision.
- (e)** The [State](#) must prepare and retain, for [inspection](#) by the [Administrator](#) upon request, a record of each hearing. The record must contain, as a minimum, a list of witnesses together with the text of each presentation.
- (f)** The [State](#) must submit with the [plan](#), revision, or schedule, a [certification](#) that the requirements in paragraph (a) and (d) of this section were met. Such [certification](#) will include the date and place of any public hearing(s) held or that no public hearing was requested during the 30 day notification period.
- (g)** Upon written application by a [State agency](#) (through the appropriate Regional Office), the [Administrator](#) may approve [State](#) procedures for public hearings. The following criteria apply:
- (1)** Procedures approved under this section shall be deemed to satisfy the requirement of this part regarding public hearings.
  - (2)** Procedures different from this part may be approved if they -

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cont.



- (i) Ensure public participation in matters for which hearings are required; and
- (ii) Provide adequate public notification of the opportunity to participate.
- (3) The Administrator may impose any conditions on approval he or she deems necessary.

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T2-8  
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JOHN TOMMY ROSAS  
TRIBAL ADMINISTRATOR

TRIBAL LITIGATOR -TATTN JUDICIAL # 0001

TONGVA ANCESTRAL TERRITORIAL TRIBAL NATION

A TRIBAL SOVEREIGN NATION UNDER THE UNDRIP AND AS A TREATY [s] SIGNATORIES RECOGNIZED TRIBE, WITH HISTORICAL & DNA AUTHENTICATION ON CHANNEL ISLANDS AND COASTAL VILLAGES - AND AS A CALIFORNIA NATIVE AMERICAN TRIBE / SB18-AB 52-AJR 42- ACHP/NHPA - CALIFORNIA INDIANS JURISDICTIONAL ACT U S CONGRESS APPROVED MAY 18, 1928 45 STAT. L 602

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**From:** Johntommy Rosas <tattnlaw@gmail.com>  
**Sent:** Wednesday, November 8, 2017 9:15 AM  
**To:** Swenson, Daniel P SPL; Richard Brody; David Castanon  
**Subject:** Re: RE ILLEGAL HEARING UNDER THE CFR'S TATTN OBJECTS TO THE Date: Wednesday, November 8, 2017 Time: 6:00 p.m. – 8:30 p.m. Place: Burton Chase Park – Community Center 13650 Mindanao Way Marina del Rey, CA 90292

please add these CFR'S to my TATTN OBJECTION AND OPPOSITION TO THE ILLEGAL DEFECTIVE HEARING BY CDFW/USACOE LA DISTRICT email- thanks jt

<http://www.poa.usace.army.mil/Portals/34/docs/regulatory/33%20CFR%20Part%20325%20Appendix%20B%20.pdf>

1. **CFR** > [Title 33](#) > [Chapter II](#) > Part 325

## 33 CFR Part 325 - PROCESSING OF DEPARTMENT OF THE ARMY PERMITS

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cont.

1. **CFR** > [Title 40](#) > [Chapter V](#) > [Part 1506](#) > Section 1506.6

## 40 CFR 1506.6 - Public involvement.

- [eCFR](#)
- [Authorities \(U.S. Code\)](#)
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### § 1506.6 Public involvement.

Agencies shall:

**(a)** Make diligent efforts to involve the public in preparing and implementing their NEPA procedures.

**(b)** Provide public notice of NEPA-related hearings, public meetings, and the availability of environmental documents so as to inform those persons and agencies who may be interested or affected.

**(1)** In all cases the agency shall mail notice to those who have requested it on an individual action.

**(2)** In the case of an action with effects of national concern notice shall include publication in the Federal Register and notice by mail to national organizations



reasonably expected to be interested in the matter and may include listing in the *102 Monitor*. An agency engaged in rulemaking may provide notice by mail to national organizations who have requested that notice regularly be provided. Agencies shall maintain a list of such organizations.

**(3)** In the case of an action with effects primarily of local concern the notice may include:

- (i)** Notice to State and areawide clearinghouses pursuant to OMB Circular A-95 (Revised).
- (ii)** Notice to Indian tribes when effects may occur on reservations.
- (iii)** Following the affected State's public notice procedures for comparable actions.
- (iv)** Publication in local newspapers (in papers of general circulation rather than legal papers).
- (v)** Notice through other local media.
- (vi)** Notice to potentially interested community organizations including small business associations.
- (vii)** Publication in newsletters that may be expected to reach potentially interested persons.
- (viii)** Direct mailing to owners and occupants of nearby or affected property.
- (ix)** Posting of notice on and off site in the area where the action is to be located.

**(c)** Hold or sponsor public hearings or public meetings whenever appropriate or in accordance with statutory requirements applicable to the agency. Criteria shall include whether there is:

- (1)** Substantial environmental controversy concerning the proposed action or substantial interest in holding the hearing.
- (2)** A request for a hearing by another agency with jurisdiction over the action supported by reasons why a hearing will be helpful. If a draft environmental impact statement is to be considered at a public hearing, the agency should make the statement available to the public at least 15 days in advance (unless the purpose of the hearing is to provide information for the draft environmental impact statement).

**(d)** Solicit appropriate information from the public.

**(e)** Explain in its procedures where interested persons can get information or status reports on environmental impact statements and other elements of the NEPA process.

**(f)** Make environmental impact statements, the comments received, and any underlying documents available to the public pursuant to the provisions of the Freedom of Information Act ( [5 U.S.C. 552](#)), without regard to the exclusion for interagency memoranda where such memoranda transmit comments of Federal agencies on the environmental impact of the proposed action. Materials to be made available to the public shall be provided to the public without charge to the extent practicable, or at a fee which is not more than the actual costs of reproducing copies required to be sent to other Federal agencies, including the Council.

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11. Public Hearing. If a public hearing is to be held pursuant to 33 CFR part 327 for a permit application requiring an EIS, the actions analyzed by the draft EIS should be considered at the public hearing. The district engineer should make the draft EIS available to the public at least 15 days in advance of the hearing. If a hearing request is received from another agency having jurisdiction as provided in 40 CFR 1506.6(c)(2), the district engineer should coordinate a joint hearing with that agency whenever appropriate.

On Tue, Nov 7, 2017 at 3:41 PM, Johntommy Rosas <[tattnlaw@gmail.com](mailto:tattnlaw@gmail.com)> wrote:

## 40 CFR 25.5 - Public hearings.

- [eCFR](#)
- [Authorities \(U.S. Code\)](#)
- [What Cites Me](#)

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### § 25.5 Public hearings.

**(a)Applicability.** Any non-adjudicatory public hearing, whether mandatory or discretionary, under the three [Acts](#) shall meet the following minimum requirements. These requirements are subordinate to any more stringent requirements found elsewhere in this chapter or otherwise imposed by EPA, [State](#), interstate, or substate agencies. Procedures developed for adjudicatory hearings required by this chapter shall be consistent with the public participation objectives of this part, to the extent practicable.

**(b)Notice.** A notice of each hearing shall be [well](#) publicized, and shall also be mailed to the appropriate portions of the list of interested and affected parties required by [§ 25.4\(b\)\(5\)](#). Except as otherwise specifically provided elsewhere in this chapter, these actions must occur at least 45 days prior to the date of the hearing. However, where EPA determines that there are no substantial documents which must be reviewed for effective hearing participation and that there are no complex or controversial matters to be addressed by the hearing, the notice requirement may be reduced to no less than 30 days. EPA may further reduce or waive the hearing notice requirement in emergency situations where EPA determines that there is an imminent danger to public health. To the extent not duplicative, the agency holding the hearing shall also provide informal notice to all interested [persons](#) or organizations that request it. The notice shall identify the matters to be discussed at the hearing and shall include or be accompanied by a discussion of the agency's tentative determination on major issues (if any), information on the availability of a bibliography of relevant materials (if deemed appropriate), and procedures for obtaining further information. Reports, documents and data relevant to the discussion at the public hearing shall be available to the public at least 30 days

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cont.



before the hearing. Earlier availability of materials relevant to the hearing will further assist public participation and is encouraged where possible.

**(c)Locations and time.** Hearings must be held at times and places which, to the maximum extent feasible, facilitate attendance by the public. Accessibility of public [transportation](#), and use of evening and weekend hearings, should be considered. In the case of actions with Statewide interest, holding more than one hearing should be considered.

**(d)Scheduling presentations.** The agency holding the hearing shall schedule witnesses in advance, when necessary, to ensure maximum participation and allotment of adequate time for all speakers. However, the agency shall reserve some time for unscheduled testimony and may consider reserving blocks of time for major categories of witnesses.

**(e)Conduct of hearing.** The agency holding the hearing shall inform the audience of the issues involved in the decision to be made, the considerations the agency will take into account, the agency's tentative determinations (if any), and the information which is particularly solicited from the public. The agency should consider allowing a question and answer period. Procedures shall not unduly inhibit free expression of views (for example, by onerous written statement requirements or qualification of witnesses beyond minimum identification).

**(f)Record.** The agency holding the hearing shall prepare a transcript, recording or other complete record of public hearing proceedings and make it available at no more than cost to anyone who requests it. A copy of the record shall be available for public review.

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## 40 CFR 51.102 - Public hearings.

- [eCFR](#)
- [Authorities \(U.S. Code\)](#)
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### § 51.102 Public hearings.

**(a)** Except as otherwise provided in [paragraph \(c\)](#) of this section and within the 30 day notification period as required by [paragraph \(d\)](#) of this section, [States](#) must provide notice, provide the opportunity to submit written comments and allow the public the opportunity to request a public hearing. The [State](#) must hold a public hearing or provide the public the opportunity to request a public hearing. The notice announcing the 30 day notification period must include the date, place and time of the public hearing. If the [State](#) provides the public the opportunity to request a public hearing and a request is received the [State](#) must hold the scheduled hearing or schedule a public hearing (as required by [paragraph \(d\)](#) of this section). The [State](#) may cancel the public hearing through a method it identifies if no request for a public hearing is received during the 30 day notification period and the original notice announcing the 30 day notification period clearly states: *If no request for a public hearing is received the hearing will be cancelled; identifies the method and time for announcing that the hearing has been*



cancelled; and provides a contact phone number for the public to call to find out if the hearing has been cancelled. These requirements apply for adoption and submission to [EPA](#) of:

- (1) Any [plan](#) or revision of it required by [§ 51.104\(a\)](#).
- (2) Any individual [compliance schedule](#) under ( [§ 51.260](#)).
- (3) Any revision under [§ 51.104\(d\)](#).

(b) Separate hearings may be held for [plans](#) to implement primary and secondary standards.

(c) No hearing will be required for any change to an increment of progress in an approved individual [compliance schedule](#) unless such change is likely to cause the source to be unable to comply with the final compliance date in the schedule. The requirements of [§§ 51.104](#) and 51.105 will be applicable to such schedules, however.

(d) Any hearing required by [paragraph \(a\)](#) of this section will be held only after reasonable notice, which will be considered to include, at least 30 days prior to the date of such hearing(s):

- (1) Notice given to the public by prominent advertisement in the area affected announcing the date(s), time(s), and place(s) of such hearing(s);
- (2) Availability of each proposed [plan](#) or revision for public [inspection](#) in at least one location in each [region](#) to which it will apply, and the availability of each [compliance schedule](#) for public [inspection](#) in at least one location in the [region](#) in which the [affected source](#) is located;
- (3) Notification to the [Administrator](#) (through the appropriate Regional Office);
- (4) Notification to each local air pollution control agency which will be significantly impacted by such [plan](#), schedule or revision;
- (5) In the case of an interstate [region](#), notification to any other [States](#) included, in whole or in part, in the [regions](#) which are significantly impacted by such [plan](#) or schedule or revision.

(e) The [State](#) must prepare and retain, for [inspection](#) by the [Administrator](#) upon request, a record of each hearing. The record must contain, as a minimum, a list of witnesses together with the text of each presentation.

(f) The [State](#) must submit with the [plan](#), revision, or schedule, a [certification](#) that the requirements in paragraph (a) and (d) of this section were met. Such [certification](#) will include the date and place of any public hearing(s) held or that no public hearing was requested during the 30 day notification period.

(g) Upon written application by a [State agency](#) (through the appropriate Regional Office), the [Administrator](#) may approve [State](#) procedures for public hearings. The following criteria apply:

- (1) Procedures approved under this section shall be deemed to satisfy the requirement of this part regarding public hearings.
- (2) Procedures different from this part may be approved if they -

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cont.



- (i) Ensure public participation in matters for which hearings are required; and
  - (ii) Provide adequate public notification of the opportunity to participate.
- (3) The [Administrator](#) may impose any conditions on approval he or she deems necessary.

--  
JOHN TOMMY ROSAS  
TRIBAL ADMINISTRATOR  
TRIBAL LITIGATOR -TATTN JUDICIAL # 0001  
[TONGVA ANCESTRAL TERRITORIAL TRIBAL NATION](#)  
A TRIBAL SOVEREIGN NATION UNDER THE UNDRIP AND AS A TREATY [s] SIGNATORIES RECOGNIZED TRIBE, WITH HISTORICAL & DNA AUTHENTICATION ON CHANNEL ISLANDS AND COASTAL VILLAGES - AND AS A CALIFORNIA NATIVE AMERICAN TRIBE / SB18-AB 52-AJR 42-ACHP/NHPA - CALIFORNIA INDIANS JURISDICTIONAL ACT U S CONGRESS APPROVED MAY 18, 1928 45 STAT. L 602

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cont.

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JOHN TOMMY ROSAS  
TRIBAL ADMINISTRATOR  
TRIBAL LITIGATOR -TATTN JUDICIAL # 0001  
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A TRIBAL SOVEREIGN NATION UNDER THE UNDRIP AND AS A TREATY [s] SIGNATORIES RECOGNIZED TRIBE, WITH HISTORICAL & DNA AUTHENTICATION ON CHANNEL ISLANDS AND COASTAL VILLAGES - AND AS A CALIFORNIA NATIVE AMERICAN TRIBE / SB18-AB 52-AJR 42-ACHP/NHPA - CALIFORNIA INDIANS JURISDICTIONAL ACT U S CONGRESS APPROVED MAY 18, 1928 45 STAT. L 602

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-----Original Message-----

From: JohnTommy Rosas [mailto:tattnlaw@gmail.com]

Sent: Saturday, 3 February, 2018 2:03 PM

To: Rogers, Bonnie L CIV USARMY CESPL (US) <Bonnie.L.Rogers@usace.army.mil>; Brody, Richard@Wildlife <Richard.Brody@wildlife.ca.gov>

Subject: [Non-DoD Source] BWER EIS/EIR TATTN REQUEST 30 DAY EXT ON NEW REF MATERIALS ADDED ON 1 23 2018

TATTN REQUEST FOR THE LEGAL EXTENSION TO COMMENT ON THE BWER DESI/DEIR -We are requesting an additional 30days to comment because of the untimely release of reference materials/documents on Jan 23 2018 as posted on the CDFW -see below - Blockedhttps://www.wildlife.ca.gov/regions/5/ballona-eir

The additional new information ADDED/POSTED requires by law on NEPA and CEQA processing and assessment s of the new documents which are many and thousands of pages - TATTN request the granting of the extension for feb 5 monday deadline- If either agency does not respond in a timely manner - we will impose and apply the 30 day extension by law so we request the USACOE and CDFW concurrence -so take notice of this action by TATTN - /S/ JOHN TOMMY ROSAS

Index of /Ballona\_Restoration\_EIR\_Reference\_Material/

[parent directory] <ftp://ftp.wildlife.ca.gov/>

Name Size Date Modified

00 Acronyms Refs/ <ftp://ftp.wildlife.ca.gov/Ballona_Restoration_EIR_Reference_Material/00%20Acronyms%20Refs/>	1/22/18, 7:36:00 AM
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1_Introduction Refs/ <ftp://ftp.wildlife.ca.gov/Ballona_Restoration_EIR_Reference_Material/1_Introduction Refs/>	1/22/18, 8:00:00 AM
2_Descrip of Project and Alts Refs/ <ftp://ftp.wildlife.ca.gov/Ballona_Restoration_EIR_Reference_Material/2_Descrip%20of%20Project%20and%20Alts Refs/>	1/22/18, 8:30:00 AM
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JOHN TOMMY ROSAS

TRIBAL ADMINISTRATOR

TRIBAL LITIGATOR - TATTN JUDICIAL # 0001

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T2-9

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## Comment Letter T2

**From:** Johntommy Rosas [<mailto:tattnlaw@gmail.com>]

**Sent:** Monday, 5 February, 2018 2:28 PM

**To:** Burg, Richard@Wildlife <[Richard.Burg@wildlife.ca.gov](mailto:Richard.Burg@wildlife.ca.gov)>; Rogers, Bonnie L CIV USARMY CESPL (US)

<[Bonnie.L.Rogers@usace.army.mil](mailto:Bonnie.L.Rogers@usace.army.mil)>; Castanon, David J CIV USARMY CESPL (US) <[David.J.Castanon@usace.army.mil](mailto:David.J.Castanon@usace.army.mil)>

**Cc:** Mayfield, Rick@Wildlife <[Rick.Mayfield@wildlife.ca.gov](mailto:Rick.Mayfield@wildlife.ca.gov)>; Takei, Kevin@Wildlife <[Kevin.Takei@wildlife.ca.gov](mailto:Kevin.Takei@wildlife.ca.gov)>

**Subject:** [Non-DoD Source] Re: BWER EIS/EIR TATTN REQUEST 30 DAY EXT ON NEW REF MATERIALS ADDED ON 1 23 2018

The NOA doesnt have the ref material documents as erroneously claimed by cdfw brody -  
and the CDFW website was/is a joint access medium for the BWER DEIS/DEIR -so it has to be  
as complete and updated as the hard copies at various locations as claimed in NOA -its clear now that the ref materials were not part of the complete disclosure as required-  
under NEPA and CEQA -and for those grounds and violations -  
TATTN again OBJECTS and OPPOSES the BWER DESI/DEIR PROJECT and the defective illegal process-  
see attached

T2-10

On Mon, Feb 5, 2018 at 12:40 PM, Johntommy Rosas <[tattnlaw@gmail.com](mailto:tattnlaw@gmail.com)> wrote:

From the NEPA and CEQA (2014) handbook:

Under "unusual circumstances" the CEQA comment period may be longer than 60 days. Here, this late addition of a significant amount of reference material is unusual in the EIR/EIS process, and would likely qualify as "new" information.

Further..."the agencies should keep in mind that cultivating active public participation and responding to public concerns about projects can help to minimize the risk of legal challenge".

[Blockedhttps://ceq.doe.gov/docs/ceq-publications/NEPA\\_CEQA\\_Handbook\\_Feb2014.pdf](https://ceq.doe.gov/docs/ceq-publications/NEPA_CEQA_Handbook_Feb2014.pdf)

An additional concern is that the analysis of baseline water supply and wetland delineation should change as a result of Playa Vista no longer being allowed (per the CA Coastal Commission) to drain water that will now go into the wetlands, as it had historically prior to the unpermitted drains. This is new information and should require a recirculation of the DEIR/DEIS, with potentially new alternatives being considered.

T2-11

T2-12

Please extend the comment period to allow consideration of this new information.

T2-13

On Mon, Feb 5, 2018 at 11:00 AM, John Tommy Rosas <tattnlaw@gmail.com> wrote:

exhibit a  
please see the dates on the new ref materials  
they are all dated 1 22 2018 or 1 23 2018  
and right after were posted on the CDFW website -  
////////

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On Mon, Feb 5, 2018 at 10:31 AM, John Tommy Rosas <tattnlaw@gmail.com> wrote:

Thanks for your response Rich-  
your answer seems conflicting as you state  
" *The reference material made available on the Department's website have been available for public review immediately upon issuance of the Draft EIS/EIR as noted in the Draft EIR and attached NOA. After two inquiries from the public, the Department made the references available on the Department's website to facilitate their accessibility.*  
my issue is the ref materials were not on the CDFW website-



until jan 24 2018 - so your first quoted statement conflicts with the second one- its also evidenced that the files were created all appx on the jan 22/23 2018 as all the files are dated and match that fact - its not accurate based on the evidence that the ref materials were available online until appx the 24 of jan 2018 - maybe the libraries as you mentioned had the printed hard copies or cd's ? - so are you stating there was a printed hard copy/cd's of all the references? because I spent 14 hours yesterday downloading the ref section and I am only 15% finished with it, my point is there must be or 6000-7000 pages of ref docs- and maybe more than that - there also was no notice sent out on the release of the ref docs or that they would be on the website - that I had mentioned were not available -to access or compare and evaluate with the written DEIS/DEIR conclusions etc - Please answer my questions above and clarify the issue -ASAP I am still requesting the 30 day extension based on the illegal exclusion and delayed release of the ref's section on the CDFW website - its a legal issue now and I will issue a NOIS letter on this and the other issues I have with this BWER DESI/DEIR -NEPA/CEQA process as its defective and illegal on numerous grounds including the ref docs delayed release- thanks for your prompt response to this email- /S/ JOHNTOMMY ROSAS

T2-14  
cont.

On Mon, Feb 5, 2018 at 8:42 AM, Burg, Richard@Wildlife <[Richard.Burg@wildlife.ca.gov](mailto:Richard.Burg@wildlife.ca.gov)> wrote:

Good morning, I hope you had a pleasant weekend. The reference material made available on the Department's website have been available for public review immediately upon issuance of the Draft EIS/EIR as noted in the Draft EIR and attached NOA. They were also with the library copies and in other location(s) identified in the Draft EIS/EIR as repositories for references materials and available upon request. After two inquiries from the public, the Department made the references available on the Department's website to facilitate their accessibility.

Richard Burg  
Environmental Program Manager  
California Department of Fish and Wildlife  
South Coast Region 5  
[3883 Ruffin Road](#)  
[San Diego, CA 92123](#)  
T: [\(858\) 467-4209](tel:(858)467-4209)  
F: [\(858\) 467-4239](tel:(858)467-4239)

"Only when the last tree has died and the last river poisoned and the last fish caught will we realize that we cannot eat money".

-North American Cree Indian

Every Californian should conserve water. Find out how at:



[SaveOurWater.com](http://SaveOurWater.com) · [Drought.CA.gov](http://Drought.CA.gov)

From: Johntommy Rosas [mailto:[tattnlaw@gmail.com](mailto:tattnlaw@gmail.com)]



**Sent:** Saturday, February 03, 2018 5:48 PM  
**To:** Mayfield, Rick@Wildlife <[Rick.Mayfield@wildlife.ca.gov](mailto:Rick.Mayfield@wildlife.ca.gov)>; Burg, Richard@Wildlife <[Richard.Burg@wildlife.ca.gov](mailto:Richard.Burg@wildlife.ca.gov)>  
**Subject:** Fwd: BWER EIS/EIR TATTN REQUEST 30 DAY EXT ON NEW REF MATERIALS ADDED ON 1 23 2018

----- Forwarded message -----

**From:** John Tommy Rosas <[tattnlaw@gmail.com](mailto:tattnlaw@gmail.com)>  
**Date:** Sat, Feb 3, 2018 at 2:02 PM  
**Subject:** BWER EIS/EIR TATTN REQUEST 30 DAY EXT ON NEW REF MATERIALS ADDED ON 1 23 2018  
**To:** "Rogers, Bonnie L SPL" <[Bonnie.L.Rogers@usace.army.mil](mailto:Bonnie.L.Rogers@usace.army.mil)>, "Brody, Richard@Wildlife" <[Richard.Brody@wildlife.ca.gov](mailto:Richard.Brody@wildlife.ca.gov)>

TATTN REQUEST FOR THE LEGAL EXTENSION TO COMMENT ON THE BWER DESI/DEIR -We are requesting an additional 30days to comment because of the untimely release of reference materials/documents on Jan 23 2018 as posted on the CDFW -see below -  
[Blockedhttps://www.wildlife.ca.gov/regions/5/ballona-eir](https://www.wildlife.ca.gov/regions/5/ballona-eir)  
 The additional new information ADDED/POSTED requires by law on NEPA and CEQA processing and assessment s of the new documents which are many and thousands of pages -  
 TATTN request the granting of the extension for feb 5 monday deadline-  
 If either agency does not respond in a timely manner - we will impose and apply the 30 day extension by law so we request the USACOE and CDFW concurrence -so take notice of this action by TATTN -  
 /S/ JOHNTOMMY ROSAS

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JOHN TOMMY ROSAS  
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TRIBAL LITIGATOR - TATTN JUDICIAL # 0001  
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A TRIBAL SOVEREIGN NATION UNDER THE UNDRIP AND AS A TREATY [s] SIGNATORIES RECOGNIZED TRIBE, WITH HISTORICAL & DNA AUTHENTICATION ON CHANNEL ISLANDS AND COASTAL VILLAGES - AND AS A CALIFORNIA NATIVE AMERICAN TRIBE / SB18-AB 52-AJR 42-ACHP/NHPA - CALIFORNIA INDIANS JURISDICTIONAL ACT U S CONGRESS APPROVED MAY 18, 1928 45 STAT. L 602

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**NOTICE OF AVAILABILITY OF  
DRAFT ENVIRONMENTAL IMPACT STATEMENT/ENVIRONMENTAL IMPACT  
REPORT (DRAFT EIS/EIR)**

**FILED**

OCT 18 2017

**To:** All Interested Agencies, Organizations and Persons

**From:** California Department of Fish and Wildlife

DEAN C. LEE, CLERK  
REGISTRAR-RECORDER/COUNTY CLERK  
S. SMITH DEPUTY

**Subject:** Notice of Availability of Draft Environmental Impact Statement/Environmental Impact Report (Draft EIS/EIR) (State Clearinghouse No. 2012071090)  
[REVISED TO CORRECT COASTAL CONSERVANCY ADDRESS]

**Project Title:** Ballona Wetlands Restoration Project

**Project Proponents:** The California Department of Fish and Wildlife (CDFW) and the Los Angeles County Department of Public Works-Flood Control District (LACFCD)

**Project Location:** The project site includes approximately 566 acres within the Ballona Wetlands Ecological Reserve (Ballona Reserve) and approximately 4 acres comprised of seven potential natural gas storage well relocation sites proposed within the Southern California Gas Company (SoCalGas) Property located adjacent to the Ballona Reserve. The Ballona Reserve is located in southern California, south of Marina del Rey and east of Playa del Rey. It extends roughly from the Marina Freeway (State Route 90) to the east, the Westchester bluffs to the south, Playa del Rey to the west, and Fiji Way to the north. It is primarily located in the western portion of the City of Los Angeles and partially within unincorporated Los Angeles County, approximately 1.5 miles west of the San Diego Freeway (Interstate 405) and approximately 0.25 mile southeast of Santa Monica Bay. The Ballona Reserve is bisected by and includes a channelized reach of Ballona Creek, and it is traversed by Culver Boulevard, Jefferson Boulevard, and Lincoln Boulevard. SoCalGas owns in fee, occupies, and operates the Playa del Rey Storage Facility, which is a natural gas storage system located at 8141 Culana Avenue, Los Angeles. The SoCalGas Property consists of Site 1 through Site 7, which range between 0.19 and 0.99 acre in size and represent potential future locations for SoCalGas wells to be relocated from the Ballona Reserve as part of the project.

T2-15

**Date of Notice:** September 25, 2017

**Comment Review Period:** September 25, 2017 – November 24, 2017

In accordance with the California Environmental Quality Act (CEQA), CDFW, acting in the capacity of Lead Agency, has worked together with the U.S. Army Corps of Engineers (the Corps) in its capacity as Lead Agency under the National Environmental Policy Act (NEPA) to complete a joint Draft EIS/EIR for the Ballona Wetlands Restoration Project. This notice briefly describes the project and its location, identifies the potential significant impacts of the project, describes how the Draft EIS/EIR and the reference material relied upon its drafting may be accessed electronically, and states where printed copies of the Draft EIS/EIR are available for inspection.



**PROJECT BACKGROUND AND SUMMARY DESCRIPTION:** The California State Legislature provided for the establishment of ecological reserves, like the Ballona Reserve, to further a policy of protecting threatened or endangered native plants, wildlife, or aquatic organisms or specialized habitat types, both terrestrial and non-marine aquatic, or large heterogeneous natural gene pools for the future use of mankind. The wetlands ecosystem in the vicinity of the Ballona Reserve once spanned more than 2,100 acres and supported a great diversity of wetland types that stretched from Playa del Rey to Venice and inland to the Baldwin Hills. As preliminarily delineated in 2011, the 577-acre Ballona Reserve now provides approximately 153 acres of potential wetlands, as well as approximately 83 acres of potential non-wetland waters of the U.S., including the Ballona Creek channel. The United States Environmental Protection Agency (USEPA) has determined that all wetland habitats within the Ballona Reserve are impaired, and a portion of the Ballona Reserve has been identified as among the most degraded wetlands in California using standardized wetland condition protocols.

CDFW proposes a large-scale restoration of the Ballona Reserve that would entail restoring, enhancing, and establishing native coastal wetland and upland habitats within the Ballona Reserve, and incidental work necessitated by the proposed restoration activities. The project is intended to return the daily ebb and flow of tidal waters where practically feasible to achieve predominantly estuarine conditions, enhance freshwater conditions, and enhance physical and biological functions within the Ballona Reserve. Restoring wetland functions and services would reestablish native wetland vegetation and provide important habitat for a variety of wildlife species. A restored, high-functioning wetland also would benefit the adjacent marine environment and enhance the quality of tidal waters. More specifically, the project would:

1. Establish 81.0 acres of new and enhance 105.8 acres of existing native wetland waters of the U.S. (total wetland waters of the U.S established or enhanced: 186.8 acres);
2. Establish 38.7 acres of new and enhance 58.0 acres of existing non-wetland waters of the U.S. (total non-wetland waters of the U.S established or enhanced: 96.7 acres);
3. Subject 31.4 acres of wetland waters of the U.S. to permanent loss, 0.2 acre to permanent loss of function, and 30.2 acres to temporary impacts;
4. Subject 5.2 acres of non-wetland waters of the U.S. to permanent loss, 5.7 acres to permanent loss of function, and 25.0 acres to temporary impact;
5. Work within 58.3 acres of navigable waters of the U.S. (16.2 acres of permanent loss of waters, 5.9 acres of permanent loss of function, and 36.2 acres of temporary impacts);
6. Reposition between 2,290,000 and 2,420,000 cy of dredged or fill material on the project site as perimeter levees, transition zones, and upland restoration areas to allow Ballona Creek to reconnect with its historic floodplain;
7. Export from the site between 10,000 and 110,000 cy of excavated soil via trucks or barge;
8. Remove approximately 9,800 feet of existing Ballona Creek levees and construct new engineered levees set back from the existing Ballona Creek channel;
9. Realign Ballona Creek to a "meander-shaped" channel configuration;

T2-15  
cont.



10. Restore, enhance, and establish estuarine aquatic and associated upland habitats connected to the realigned Ballona Creek;
11. Install, operate, and maintain new hydraulic structures (potentially including culverts with self-regulating tide gates or similar structures) to allow for controlled tidal exchange;
12. Improve tidal circulation into the site and implementing other modifications to create dynamic interactions between the Ballona Creek channel, aquatic resources within the Ballona Reserve, and the Santa Monica Bay and thereby support estuarine and associated habitats within the Ballona Reserve;
13. Implement public access-related improvements including trails, a new three-story parking structure and other parking improvements, and encouragement of appropriate and legal public use throughout the Ballona Reserve by enhancing public safety;
14. Modify existing infrastructure and utilities as necessary to implement restoration activities, potentially including the abandonment or relocation of SoCalGas wells and pipelines; and
15. Implement long-term post-restoration activities, as needed, including inspections, repairs, clean-ups, vegetation maintenance, and related activities.

T2-15  
cont.

**SUMMARY OF IMPACT CONCLUSIONS:** Issues addressed in the Draft EIS/EIR include Aesthetics; Agriculture and Forestry Resources; Air Quality; Biological Resources; Cultural and Paleontological Resources; Energy Conservation; Geology, Seismicity, and Soils; Greenhouse Gas Emissions/Climate Change; Hazards and Hazardous Materials; Hydrology and Water Quality; Land Use and Planning; Mineral Resources; Noise; Population and Housing; Public Services; Recreation; Transportation and Traffic; Utilities and Service Systems; and Socioeconomics and Environmental Justice. With implementation of mitigation measures, no significant and unavoidable direct, indirect, or cumulative impacts associated with these considerations would result due to implementation, operation, or management of the project.

**DOCUMENT REVIEW AND COMMENT:** If you wish to review a copy of the Draft EIS/EIR, you may do so. The Draft EIS/EIR, appendices, and all documents referenced in the Draft EIS/EIR are available for public review during normal working hours at the following locations:

1. California State Coastal Conservancy, 1515 Clay St. 10th Floor Oakland, CA 94612
2. Los Angeles Public Library, Playa Vista Branch, 6400 Playa Vista Drive, Los Angeles, CA 90094
3. County of Los Angeles Public Library, Lloyd Taber-Marina del Rey, 4533 Admiralty Way Marina del Rey, CA 90292
4. Los Angeles Public Library, Westchester-Loyola Village Branch, 7114 W Manchester Ave, Los Angeles, CA 90045

In addition to printed copies, the Draft EIS/EIR also is available electronically on the project website (<https://www.wildlife.ca.gov/Regions/5/Ballona-EIR>) and at [www.ballonarestoration.org](http://www.ballonarestoration.org)

The public review period for the Draft EIS/EIR begins on September 25, 2017 and ends on November 24, 2017. Written comments on the Draft EIS/EIR will be accepted via regular mail or e-mail at any time before the end of the comment period on November 24, 2017, including in person at the public meeting described below. Written comments may be directed to:

Richard Brody, CDFW  
c/o ESA (jas)  
550 Kearney Street, Suite 800  
San Francisco, California, 94108  
E-mail: [BWLRcomments@wildlife.ca.gov](mailto:BWLRcomments@wildlife.ca.gov)

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**PUBLIC MEETING DATE AND LOCATION:** A public meeting will be held to provide an overview of the findings of the Draft EIS/EIR and to receive comments on the Draft EIS/EIR. No decisions about the project will be made at the public meeting. The date, time, and place of the public meeting is scheduled as follows:

Date: Wednesday, November 8, 2017  
Time: 6:00 p.m. – 8:30 p.m.  
Place: Burton Chase Park – Community Center  
13650 Mindanao Way  
Marina del Rey, CA 90292





T2-16

NEPA and CEQA:

Integrating Federal and State Environmental Reviews

February 2014

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## I. Introduction:

This handbook provides advisory guidance to Federal, state, and local agencies and others regarding projects that are subject to both the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA).

Once President Nixon signed NEPA on January 1, 1970, and California Governor Reagan followed suit signing CEQA into law on September 18 of the same year, these laws expressly required the incorporation of environmental values into governmental decision making. Those statutes require Federal, state, and local agencies to analyze and disclose the potential environmental impacts of their decisions, and, in the case of CEQA, to minimize significant adverse environmental effects to the extent feasible.

NEPA was codified under Title 42 of the United States Code, in section 4331 et seq. (42 U.S.C. § 4331 et seq.). Under NEPA, Congress established the White House Council on Environmental Quality (CEQ) to ensure that Federal agencies meet their obligations of the Act. CEQ's Regulations for Implementing the Procedural Provisions of NEPA (hereinafter CEQ NEPA Regulations) are in Title 40 of Code of Federal Regulations section 1500 et seq. (40 C.F.R. § 1500 et seq.). In California, CEQA was codified under Division 13 of California's Public Resources Code, in sections 21000 et seq. (Cal. Pub. Resources Code, § 21000 et seq.). The Guidelines for Implementation of the California Environmental Quality Act are in Title 14 of California's Code of Regulations, section 15000 et seq. (Cal. Code Regs., tit. 14, § 15000 et seq.; hereafter CEQA Guidelines).

NEPA and CEQA are similar, both in intent and in the review process (the analyses, public engagement, and document preparation) that they dictate. Importantly, both statutes encourage a joint Federal and state review where a project requires both Federal and state approvals. Indeed, in such cases, a joint review process can avoid redundancy, improve efficiency and interagency cooperation, and be easier for applicants and citizens to navigate. Despite the similarities between NEPA and CEQA, there are several differences that require careful coordination between the Federal and state agencies responsible for complying with NEPA and CEQA. Conflict arising from these differences can create unnecessary delay, confusion, and legal vulnerability.

Federal, state and local agencies have cooperated in the environmental review of projects ranging from infrastructure to renewable energy permitting. As the state and Federal governments pursue shared goals, there will be a continued need for an efficient, transparent environmental review process that meets the requirements of both NEPA and CEQA.

Recognizing the importance of implementing NEPA and CEQA efficiently and effectively, the CEQ and the California Governor's Office of Planning and Research (OPR) developed this handbook to provide advisory guidance on conducting joint NEPA and CEQA review processes. The CEQ oversees Federal agency implementation of NEPA, which includes writing the CEQ NEPA Regulations<sup>1</sup> and preparing guidance and handbooks for Federal agencies. OPR plays

<sup>1</sup> The CEQ Regulations for Implementing the Procedural Provisions of NEPA are available on [www.nepa.gov/ceq\\_hss.doe.gov/ceq\\_regulations/regulations.html](http://www.nepa.gov/ceq_hss.doe.gov/ceq_regulations/regulations.html).

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several roles in the administration of CEQA, including developing the CEQA Guidelines<sup>2</sup> in coordination with the California Natural Resources Agency, providing technical assistance to state and local agencies, and coordinating state level review of CEQA documents.

The purpose of this handbook is to provide practitioners with an overview of the NEPA and CEQA processes, and to provide practical suggestions on developing a single environmental review process that can meet the requirements of both statutes. This handbook contains three main sections. First is a “Question and Answer” section that addresses the key similarities and differences between NEPA and CEQA. This section compares each law’s requirements or common practices, and identifies possible strategies for meeting the requirements of both laws. These strategies are not meant to prescribe methods that agencies must use; rather, this handbook provides suggestions that will help agencies identify and think through potential issues. Indeed, developing a common understanding of the NEPA and CEQA review processes and their differences at the beginning of a joint review process may be among the most important ways to conduct an efficient and effective review process.

Second, this handbook provides a framework for a Memorandum of Understanding (MOU) between two or more agencies entering a joint NEPA/CEQA review process. MOUs can clarify responsibilities and avoid potential conflicts. The MOU framework in this handbook highlights a number of issues that agencies can consider before embarking on their joint effort. This handbook is not intended to replace or replicate any existing MOUs; rather, it raises topics agencies might consider incorporating into their own MOUs. Much like the Q&A document, a key goal of this framework is to encourage state and Federal agencies to consider and resolve potential challenges common to joint NEPA/CEQA review processes in order to avoid complications late in the review process.

Finally, the third section addresses the California Energy Commission (CEC) licensing process for decisions on thermal power plants 50 megawatts and larger. This licensing process is a certified regulatory program under CEQA and therefore the process and documents prepared by the CEC serve as the functional equivalent of a CEQA review (CEQA Guidelines, § 15251, subd. (j)).

As noted above, this handbook is advisory and does not supplant the administrative regulations set forth in the CEQA Guidelines, or the CEQ NEPA Regulations. Agencies conducting an environmental review must also take into account any additional requirements or time periods established in an individual agency’s administrative regulations or procedures implementing NEPA and CEQA, which could prescribe additional or more stringent requirements than the CEQ NEPA Regulations and the CEQA Guidelines.

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<sup>2</sup> The CEQA Guidelines are found in section 15000 et seq. of Title 14 of the California Code of Regulations.



## II. Questions and Answers

### A. Stage 1: Preliminary Questions

#### 1. What Activities Require Environmental Review?

NEPA and CEQA promote informed decision making by requiring an environmental review process (i.e., analyses and documentation) before a final decision on whether and how to proceed. NEPA applies specifically to Federal proposed actions and CEQA applies to state and local government proposed actions.

**NEPA Requirement:** NEPA was the first major environmental law in the United States. It requires agencies to assess the environmental effects of a proposed agency action and any reasonable alternatives before making a decision on whether, and if so, how to proceed. The NEPA review (a process involving environmental analyses and documentation) ensures that decisions are better informed and allows for greater public involvement. NEPA applies to all Federal agencies in the executive branch (40 C.F.R. § 1507.1).<sup>3</sup> NEPA applies to Federal actions including not only broad actions, such as establishing or updating land management plans, programs, or policies, but also to specific projects (*Id.* at § 1508.18(b)). With regard to private actions, NEPA applies to any Federal decisions on approvals, permits, or funding required for the private action. For example, private projects may involve Federal loan guarantees, Clean Water Act section 404 permits, and Endangered Species Act Incidental Take Permits.

The CEQ NEPA Regulations encourage cooperation with state and local agencies in an effort to reduce duplication in the NEPA process (40 C.F.R. § 1506.2). The regulation states that cooperation shall include:

- (1) Joint planning processes.
- (2) Joint environmental research and studies.
- (3) Joint public hearings (except where otherwise provided by statute).
- (4) Joint environmental assessments.

Federal agencies are directed to cooperate in fulfilling the requirements of state and local laws and ordinances where those requirements are in addition to, but not in conflict with, Federal requirements, by preparing one document that complies with all applicable laws (40 C.F.R. § 1506.2(c)). When preparing a joint Environmental Impact Statement (EIS)/Environmental Impact Report (EIR), “one or more Federal agencies and one or more state or local agencies shall be joint lead agencies” (*Id.* at § 1506.2(c)). CEQ NEPA Regulations further provide agencies with the ability to combine documents, by stating that “any environmental document in compliance with NEPA may be combined with any other agency document to reduce duplication and paperwork” (*Id.* at § 1506.4). Furthermore, if an existing document cannot be utilized,

<sup>3</sup> NEPA does not apply to the President, the Congress, or the Federal courts (40 C.F.R. § 1508.12).

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portions may be incorporated by reference (See below, Q&A, WHEN CAN INCORPORATION BY REFERENCE BE USED?).

**CEQA Requirement:** CEQA applies to projects of all California state, regional or local agencies, but not to Federal agencies. Its purposes are similar to NEPA. They include ensuring informed governmental decisions, identifying ways to avoid or reduce environmental damage through feasible mitigation or project alternatives, and providing for public disclosure (CEQA Guidelines, § 15002, subd. (a)(1)-(4)). CEQA requirements apply to public agency projects including “activities directly undertaken by a governmental agency, activities financed in whole or in part by a governmental agency, or private activities which require approval from a governmental agency” (*Id.* at 14 CCR § 15002, subd. (b)(1)-(2)). CEQA also applies to private projects that involve governmental participation, financing, or approval (*Id.* at §§ 15002, subd. (c) & 15378, subd. (a)(2)).

Like NEPA, CEQA encourages cooperation with Federal agencies to reduce duplication in the CEQA process. In fact, CEQA recommends that lead agencies rely on a Federal EIS “whenever possible,” so long as the EIS satisfies the requirements of CEQA (Cal. Pub. Resources Code, § 21083.7). CEQA does not authorize state agencies to simply delay action until Federal agencies complete the NEPA process. Rather, CEQA Guidelines section 15223 provides that if a state agency knows that its authorization will be needed for a project undergoing Federal environmental review, that agency “shall consult as soon as possible with the Federal agency” (emphasis added).

**Opportunities for Coordination:** Both NEPA and CEQA have similar goals of ensuring that governmental actors are making informed decisions regarding projects and operations that may affect the environment, and their implementing regulations are designed to allow flexibility in consolidating and avoiding duplication among multiple governmental layers of review.

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## 2. What Level of Environmental Review is Needed?

Both NEPA and CEQA require agencies to determine whether a proposed action or project may have a significant impact on the environment, and to determine the appropriate level of environmental review. When NEPA and CEQA apply, agencies must therefore first determine what level of review is required. The agency has the following three options: (1) Categorical Exclusion/Categorical Exemption; (2) Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) (or Mitigated FONSI)/Initial Study (IS)) and Negative Declaration (ND) (or Mitigated Negative Declaration (MND)); or (3) EIS/EIR.

**NEPA Requirement:** Individual agencies may designate Categorical Exclusions in their agency NEPA implementing procedures that identify categories of actions they have determined typically do not have a significant impact on the environment, and for which neither an EA nor an EIS is necessary (40 C.F.R. § 1508.4). If the proposed project is an activity described in a Categorical Exclusion, and there are no extraordinary circumstances—the “safety net” provision ensuring that there are no unusual circumstances associated with applying the Categorical Exclusion to a specific proposed action—then the NEPA review is complete.

When the proposed action is not subject to a Categorical Exclusion, and is not one which the Federal agency has determined to have the potential to cause significant environmental effects, requiring an EIS, then the agency can prepare an EA (40 C.F.R. § 1508.9). An EA is a typically concise public document that provides evidence and analysis on the proposed action’s potential environmental effects. An EA is prepared to determine whether a project would cause any significant effects. The EA process concludes with one of four agency decisions: 1) a FONSI; 2) a Mitigated FONSI; 3) a decision to prepare an EIS; or 4) a decision not to proceed with the project. A FONSI is appropriate where the agency determines the project has no potentially significant effects. A Mitigated FONSI is appropriate where any potentially significant impacts can be mitigated to a point where they are no longer potentially significant (40 C.F.R. § 1508.13). If the EA identifies any significant impact that the agency cannot mitigate, has not disclosed in a broader (programmatic) NEPA environmental review, or does not commit to mitigating to a point where the impact is less than significant, then the agency prepares a Notice of Intent to begin the EIS process, or decides not to proceed with the proposed action (40 C.F.R. § 1501.4).

Where agency experience and judgment indicate the potential for significant impacts, the agency may choose to bypass preparation of an EA and instead prepare an EIS from the outset. The most rigorous NEPA review, an EIS is a detailed discussion of a project’s potential environmental effects with all relevant data and analysis and an evaluation of alternatives. An EIS is required for “major Federal actions significantly affecting the quality of the human environment.” There is no initial test of whether the action is major or minor; instead, an EIS is required when there is the potential for a proposed action to have a significant impact on the human environment (40 C.F.R. § 1508.18). In cases where an EIS is not required, agencies may be able to meet their NEPA responsibilities by applying a Categorical Exclusion or preparing an EA.

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**CEQA Requirement:** The CEQA Guidelines contain a list of Categorical Exemptions for which no additional environmental analysis is needed, subject to certain exceptions (CEQA Guidelines, § 15300 et seq.). Likewise, the CEQA Guidelines contain a list of many of the Statutory Exemptions for which no additional environmental analysis is needed. Some Statutory Exemptions are complete exemptions from CEQA without exception” (*Id.* at § 15260). Note that not all of the Statutory Exemptions are listed in the CEQA Guidelines. Similar to NEPA, an agency prepares an IS if the project is not exempt. A CEQA lead agency must prepare an EIR if there is “substantial evidence” that a project “may have a significant effect on the environment” (*Id.* at § 21082.2, subds. (a) & (d)).” If the project will not have any adverse impacts, or such impacts can be mitigated to a point where clearly no significant effects would occur, the lead agency may adopt a ND or a MND (*Id.* at §§ 15063, subd. (b)(2) & 15064, subd. (b)(2)).

**Opportunities for Coordination:** NEPA and CEQA largely dictate the same process for determining the need for an EIS or EIR. Where it is not clear whether an EIS/EIR will be required, agencies prepare a less detailed analysis (IS or EA) to get a sense of the potential extent of any impacts and whether such impacts can be mitigated. If the action will not have significant impacts, agencies may adopt a FONSI/Mitigated FONSI and ND/MND. If a project will clearly have one or more significant impacts, agencies can immediately proceed to preparing an EIS/EIR without first preparing an EA or an IS (40 C.F.R. § 1501.3(a); CEQA Guidelines, § 15063, subd. (a)).

There is some divergence between the laws in the standard for determining significance. Under CEQA, an EIR is required if substantial evidence supports a *fair argument* that a project *may* have a significant impact, even if other substantial evidence indicates that the impact will not be significant. Under NEPA, deference is given to the agency’s determination based on its assessment of the context and intensity of the potential impacts, when that determination is demonstrated in the NEPA document and supported by the administrative record (40 C.F.R. § 1508.27).

NEPA and CEQA lead agencies must each reach their own conclusions about which level of environmental review and environmental document a particular proposed project requires. The lead agencies should keep each other informed about what they are considering and why. If beneficial, agencies may do a joint IS/EA to gauge the potential significance of a project’s impacts.

Because the fair argument standard, described above, favors preparation of an EIR, a CEQA lead agency may decide that an EIR is appropriate, while a NEPA lead agency may decide that an EA is appropriate for the same action. It is still possible to write a joint EA/EIR—indeed, this is fairly common with transportation projects. The joint document should explain why one agency has identified a potential significant impact, while another has not. This explanation can describe the different definitions of significance and different standards for determining

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significance. Even if a joint document is not prepared, agencies can make the process more efficient by sharing background reports, data, analyses, and other common elements.

Table 1: Summary and Comparison of NEPA and CEQA Processes

National Environmental Policy Act	California Environmental Quality Act
<p>Initial Review for Categorical Exclusion</p> <ul style="list-style-type: none"> <li>Excluded if there are no extraordinary circumstances</li> </ul>	<p>Initial Review for Categorical Exemption</p> <ul style="list-style-type: none"> <li>Exempt if the project falls within: <ul style="list-style-type: none"> <li>A statutory exemption, or</li> <li>A categorical exemption, and no exception applies</li> </ul> </li> </ul>
<p>Environmental Assessment</p> <ul style="list-style-type: none"> <li>Engage the public to the extent practicable</li> <li>If no significant impacts, adopt a Finding of No Significant Impact or, if mitigation is required to reduce an impact, a Mitigated Finding of No Significant Impact</li> <li>If there is the potential for an impact to be significant, prepare an Environmental Impact Statement</li> </ul>	<p>Initial Study</p> <ul style="list-style-type: none"> <li>Required consultation with responsible and trustee agencies</li> <li>Notice of Intent</li> <li>Public and Agency Review and Comment</li> <li>If no significant impacts, adopt a Negative Declaration or, if mitigation is required to reduce an impact, a Mitigated Negative Declaration</li> <li>If there is the potential for an impact to be significant, prepare an Environmental Impact Report</li> </ul>
Environmental Impact Statement	Environmental Impact Report

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cont.



### 3. How Does NEPA and CEQA Terminology Differ?

#### a. “Action” (NEPA) versus “project” (CEQA):

NEPA applies to Federal agency decisions on “proposals for legislation and other major Federal actions” (42 U.S.C. § 4332(2)(c)). Federal actions include actions with the potential for environmental impacts. Such actions may include adoption and approval of official policy, formal plans, programs, and specific Federal projects (40 C.F.R. § 1508.18). NEPA also applies in cases where an agency is exercising its discretion in deciding whether and how to exercise its authority over an otherwise non-Federal project (for example, issuing a permit or approving funding).<sup>4</sup>

CEQA applies to state and local agency decisions to carry out or approve “discretionary projects... including, but not limited to, the enactment and amendment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits, and the approval of tentative subdivision maps unless the project is exempt from this division” (Cal. Pub. Resources Code, § 21080). CEQA broadly defines “project” to include “the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment” (CEQA Guidelines, § 15378). Therefore, CEQA may apply to a broader range of projects than does NEPA.

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#### b. Significance:

“Significance” is a term used in both NEPA and CEQA (40 C.F.R. § 1508.27; CEQA Guidelines, § 15382).

NEPA requires that an EIS be prepared when the proposed Federal action as a whole has the potential to “significantly [affect] the quality of the human environment...” (42 U.S.C. § 4332.) The NEPA determination of significance is based on context and intensity. (40 C.F.R. § 1508.27.) Under NEPA, an EA can be prepared to determine whether a finding of no significant impact can be made (*Id.* at § 1508.9). An EIS is needed when the proposal has the potential for a significant impact as shown by an EA or when an agency’s initial determination indicates an EIS is appropriate. (*Id.* at § 1501.4.)

<sup>4</sup> A NEPA review is not required when an agency has no discretion (no decisionmaking) for a proposed action. The courts have held that ministerial acts which require no agency discretion or decisionmaking are not within the purview of NEPA. *State of South Dakota v. Andrus*, 614 F.2d 1190 (8th Cir. 1980), *cert. denied*, (“since Department of the Interior had no discretion to consider environmental factors in issuing a mineral patent, it was a ministerial act and not subject to NEPA”) (citing *Sugarloaf Citizens Ass’n v. F.E.R.C.*, 959 F.2d 508, 513 (4th Cir. 1992). See also, *Atlanta Coalition on Transp. Crisis, Inc. v. Atlanta Regional Comm’n*, 599 F.2d 1333 (5th Cir. 1979); *NAACP v. Medical Center, Inc.*, 584 F.2d 619 (3d Cir. 1978). Further, *State of Alaska v. Andrus*, 591 F.2d 537, 538, 541 (9th Cir. 1979) (“the nonexercise of power by an executive-branch office does not call for compliance with NEPA”). The D.C. Circuit, for example, has reasoned that: “No agency could meet its NEPA obligations if it had to prepare an environmental impact statement every time the agency had power to act but did not do so.” *Defenders of Wildlife v. Andrus*, 627 F.2d 1238, 1246 (D.C. Cir. 1980).



CEQA requires the identification of each “significant effect on the environment” resulting from the whole of the action and ways to mitigate each significant effect (CEQA Guidelines, §§ 15064, subd. (a) & 15126.4). If the action may have a significant effect on any environmental resource, an EIR must be prepared (*Id.* at § 15063, subd. (b)). In addition, the CEQA Guidelines list a number of circumstances requiring a mandatory finding of significance, and, therefore, preparation of an EIR (*Id.* at § 15065). Each and every significant effect on the environment must be disclosed in the EIR and mitigated if feasible (*Id.* at §§ 15126.2 & 15126.4).

Agency staff engaged in joint processes should, therefore, take into account that some impacts determined to be significant under CEQA may not necessarily be determined significant under NEPA.

**c. Agency Designations:**

*Lead Agency:* Under NEPA, the lead agency has “primary responsibility for preparing the environmental impact statement” (40 C.F.R. § 1508.16), or EA. NEPA allows agencies to share the lead role as co-leads. CEQA defines the lead agency as “the public agency which has the principal responsibility for carrying out or approving a project. The lead agency will decide whether an EIR or Negative Declaration will be required for the project and will cause the document to be prepared” (CEQA Guidelines, §§ 15051 & 15367). CEQA does not provide for co-leads; consequently, where more than one agency has responsibility for a project, one agency shall be the lead agency that prepares the CEQA review for that project (*Id.* at § 15050, subd. (a)). Therefore, there may be a NEPA and a CEQA co-lead; however, there may not be multiple CEQA leads. For ease of administration and to reduce public confusion, the Federal agencies should endeavor to have one lead for purposes of developing the environmental review with the CEQA co-lead.

*Cooperating Agency versus Responsible and Trustee Agencies:* Under NEPA, a cooperating agency is “any Federal agency other than a lead agency which has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal. . . ” (40 C.F.R. § 1508.5). Tribal, state, local, or other Federal governmental agencies with responsibilities for managing resources potentially affected by the proposed action may also, with the agreement of the lead agency, become cooperating agencies. Cooperating agencies participate in the NEPA process at the request of the lead agency and, upon request, provide expertise for the environmental analysis. Under CEQA, responsible agencies are “all public agencies other than the Lead Agency which have discretionary approval power over the project,” and participate in the CEQA process through required consultation with the lead agency (CEQA Guidelines, §§ 15096 & 15381). Agencies without approval authority, but which have jurisdiction by law over resources potentially affected by the project, are known as trustee agencies which must be included in the consultation and review process (*Id.* at § 15386).

**d. Categorical Exclusion versus Categorical Exemption:**

NEPA and CEQA both allow certain government actions to proceed without further NEPA or CEQA review if that type of action has been previously determined not to have a significant impact on the environment. Actions defined in either a Categorical Exclusion or Categorical

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Exemption may be subject to further environmental review in the case of extraordinary circumstances under NEPA or exceptions to the exemptions under CEQA (40 C.F.R. § 1508.4; CEQA Guidelines, §§ 15061, subd. (b), & 15300.2).

California currently has thirty-three Categorical Exemptions identified in sections 15301 through 15333 of the CEQA Guidelines, as well as exceptions to those exemptions in section 15300.2. Individual state and local agencies may also specify in their own implementing regulations which particular activities tend to fall within those Categorical Exemptions (CEQA Guidelines, § 15022, subd. (a)). Under CEQA, a Categorical Exemption applies to classes of projects, regardless of the agency considering the project proposal. Under NEPA, the Categorical Exclusions are specific to the agency that has established them and included them in their NEPA implementing procedures. Consequently, a proposed project requiring multiple Federal agency actions will require a NEPA review that satisfies all the agencies' implementing procedures and could, if each of the agencies does not have an appropriate Categorical Exclusion, require further review in an EA or an EIS.

All Categorical Exemptions are subject to certain exceptions (CEQA Guidelines, § 15300.2). CEQA gives lead agencies the discretionary authority to determine whether substantial evidence supports application of a Categorical Exemption for the proposed project (*Id.* at § 15061). NEPA allows agencies to determine Categorical Exclusions on an independent basis (See 40 C.F.R. §§ 1507.3 & 1508.4). The agency Categorical Exclusions are found in the agency NEPA implementing procedures available at [http://ceq.hss.doe.gov/nepa\\_contacts/Federal\\_Agency\\_NEPA\\_Implementing\\_Procedures\\_7March2013.pdf](http://ceq.hss.doe.gov/nepa_contacts/Federal_Agency_NEPA_Implementing_Procedures_7March2013.pdf).

In cases where both a Categorical Exclusion under NEPA and a Categorical Exemption under CEQA may apply, the agencies should coordinate to ensure that the consideration of potential effects is consistent with the review of extraordinary circumstances or exceptions.

Both NEPA and CEQA also provide for certain statutory exemptions. As acts of Congress and of the California Legislature, NEPA and CEQA are subject to exceptions also enacted by Congress or the Legislature. The exemptions can be complete, limited, or conditional depending on the statutory language in the exemption. Many CEQA statutory exemptions are contained within CEQA while others are found in other laws. The NEPA statutory exemptions are contained in other laws.

**e. Environmental Assessment and Finding of No Significant Impact versus Initial Study and Negative Declaration:**

A FONSI under NEPA is a brief statement by an agency that explains why an action will not have a significant effect on the human environment (40 C.F.R. § 1508.13). A FONSI generally includes the EA document, which provides the basis for the FONSI. Federal agencies shall engage the public in the preparation of an EA; however, the type and form of public involvement

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cont.



is left to the individual agency. NEPA also provides for a Mitigated FONSI,<sup>5</sup> which explains that an action may pose some significant effects, but that mitigation measures that will be adopted by the agency will reduce these effects to a level where they are no longer significant.

Under CEQA, the lead agency may adopt a ND if “there is no substantial evidence, in light of the whole record before the agency, that the project may have a significant effect on the environment” (CEQA Guidelines, § 15070, subd. (a)). A proposed ND must be circulated for public review along with an IS. An IS briefly describes the project and any potential impacts. As with NEPA, CEQA allows for a MND in which mitigation measures are proposed to reduce potentially significant effects so that they are less than significant (*Id.* at § 15369.5). Proposed mitigation measures must generally be subject to review by the public, responsible agencies, trustee agencies, and the county clerk of each county within which the proposed project is located, prior to adoption of a MND (*Id.* at §§ 15072 (requirements for notice of intent to adopt a negative declaration), 15073.5 (new mitigation measures necessary to reduce a significant impact require recirculation) & 15074.1 (different mitigation measures may be substituted if they are equally effective if the lead agency holds a hearing and makes a specific finding)).

Table 2: Comparison of the EA and IS Processes

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cont.

<sup>5</sup> See the CEQ Memorandum to the Heads of Federal Departments and Agencies, *Appropriate Use of Mitigation and Monitoring and Appropriate Use of Mitigated Findings of No Significant Impact*, January 14, 2013, available at [http://ceq.hss.doe.gov/current\\_developments/docs/Mitigation\\_and\\_Monitoring\\_Guidance\\_14Jan2011.pdf](http://ceq.hss.doe.gov/current_developments/docs/Mitigation_and_Monitoring_Guidance_14Jan2011.pdf).

	National Environmental Policy Act	California Environmental Quality Act
Environmental Document	<i>Environmental Assessment (EA)</i> : a concise document discussing the need for the project, alternative courses of action, and environmental impacts	<i>Initial Study (IS)</i> : brief description of the project and any potential impacts.
Application	Project is not subject to a Categorical Exclusion and it is unclear whether, or unlikely that, project has the potential to cause significant environmental effects.	Project is not exempt, and there is no substantial evidence that a project may have significant effects on the environment.
Conclusions	<i>Finding of No Significant Impacts</i> : the determination that a proposed project will not cause any significant environmental impacts.	<i>Negative Declaration</i> : there is no substantial evidence that the project may have a significant effect on the environment.
	<i>Mitigated Finding of No Significant Impact</i> : the project may result in significant impacts to the environment but the agency's proposed mitigation measures will reduce the impacts to the point that they are no longer significant	<i>Mitigated Negative Declaration</i> : any adverse impacts of the project can be mitigated to a point where it is clear that no significant effects would occur
	<i>Determination to Prepare an Environmental Impact Statement</i>	<i>Determination to Prepare an Environmental Impact Report</i>
Notice of Intent	Not Required	Required for a Negative Declaration
Scoping	Agency has discretion whether and how to scope.	Required for projects of statewide or area-wide significance
Public/ Agency Engagement	Agencies have discretion to involve the public and agencies.	Required consultation with responsible and trustee agencies
Commenting	Agency must provide FONSI for public review only when the action has never before been done by that agency or it is something that would typically require an EIS. The review period lasts 30 days.	A Negative Declaration must be circulated for public review along with the IS. Proposed Mitigation Measures are also generally subject to review.
Review Period	30 days as described above	20 days - most projects  30 days - projects where state agency is the lead/responsible/trustee agency <u>or</u> are of state/area/region-wide significance

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cont.



**f. Environmental Impact Statement versus Environmental Impact Review:**

An EIS under NEPA closely resembles an EIR under CEQA. A table summarizing and comparing the NEPA and CEQA processes and the procedural differences between an EIS and an EIR follows.

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Table 1: Comparison of EIS and EIR Processes

Environmental Impact Statement Process	Environmental Impact Report Process
Notice of Intent	Notice of Preparation
Scoping	Scoping
Draft EIS	Draft EIR
Filing with EPA which publishes a Notice of Availability in the Federal Register	State Clearinghouse Distribution for State Agency Review (if required)
Public and Agency Review and Comment	Public and Agency Review and Comment
Final EIS	Final EIR
	Provide proposed responses to public agency comments at least 10 days prior to certification of the EIR
Filing and EPA Notice of Availability in the Federal Register, Public and Agency Review (if designated)	Certify EIR, adopt Findings on Project' Significant Environmental Impacts and Alternatives, Mitigation Monitoring and Reporting Program, and, if necessary, a Statement of Overriding Considerations
30 Day Review Period (Agency may convert this into a public review and comment period).	
Agency Decision	Agency Decision
Record of Decision	Notice of Determination

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cont.

#### 4. Can an Existing Review (Analysis and Documentation) be Used?

##### a. Can Existing CEQA Review Satisfy NEPA?

Under NEPA, a Federal agency may use a completed CEQA review when it has participated in the preparation of the CEQA review and the CEQA review will meet NEPA requirements. Agencies should note, however, that compliance with other laws may also be necessary for proposed actions, including, but not limited to, Section 7 of the Federal Endangered Species Act, Section 106 of the National Historic Preservation Act, and Section 404 of the Clean Water Act. Consequently, agencies should consider working collaboratively to address those requirements as well.

**NEPA Requirement:** Under NEPA, a Federal agency must participate in the preparation of an environmental review (the analysis and documentation) in order for it to satisfy NEPA (42 U.S.C. § 4332(2)(D)(ii)). Furthermore, a Federal agency may not use a completed EIR to meet its own requirements until the Federal agency has reviewed the CEQA document and accompanying administrative record and determined that it satisfies all the agency's NEPA requirements.

**Opportunities for Coordination:** Federal agencies interested in using a CEQA document for their own requirements should work closely with the agency preparing the environmental review as soon as possible in an effort to prepare a joint document that complies with NEPA requirements.

In the event that a joint document complying with NEPA cannot be prepared, CEQ regulations allow agencies to incorporate by reference the relevant portions of the CEQA review (See below, Q&A, WHEN CAN INCORPORATION BY REFERENCE BE USED?).

##### b. Can Existing NEPA Review Satisfy CEQA?

The CEQA Guidelines allow a state or local agency to use an EIS or EA and FONSI if completed before an EIR or ND would otherwise be prepared for the project and the NEPA review meets CEQA requirements.

**CEQA Requirement:** Section 15221 of the CEQA Guidelines sets forth rules governing use of a NEPA document to satisfy CEQA. It states:

- (a) When a project will require compliance with both CEQA and NEPA, State or local agencies should use the EIS or Finding of No Significant Impact rather than preparing an EIR or Negative Declaration if the following two conditions occur:
  - (1) An EIS or Finding of No Significant Impact will be prepared before an EIR or Negative Declaration would otherwise be completed for the project; and
  - (2) The EIS or Finding of No Significant Impact complies with the provisions of these Guidelines.

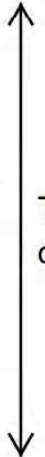
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cont.



(b) Because NEPA does not require separate discussion of mitigation measures or growth inducing impacts, these points of analysis will need to be added, supplemented, or identified before the EIS can be used as an EIR.

**Opportunities for Coordination:** State or local agencies interested in using Federal documents to satisfy state requirements should work closely with the Federal agency preparing the NEPA review as soon as possible in order to ensure that it meets the requirements of CEQA, or prepare any additional analysis needed to meet CEQA standards.

If the timing of the NEPA and CEQA review processes is such that an EIS or EA/FONSI would not be done before an EIR or Negative Declaration, agencies should enter a joint NEPA/CEQA process (CEQA Guidelines, §§ 15222 & 15226).



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cont.

## B. Stage 2: Integrating and Managing NEPA and CEQA Processes

### 1. When Can Incorporation by Reference be Used?

To reduce duplication and bulk, NEPA and CEQA allow environmental documents to reference and summarize information from other documents rather than repeating large amounts of information.

**NEPA Requirement:** Agencies can, consistent with NEPA and the CEQ NEPA Regulations, incorporate by reference analyses and information from existing documents into an EA or EIS provided the material has been appropriately cited and described, and the materials are reasonably available for review by interested parties (40 C.F.R. § 1502.21).

**CEQA Requirement:** An EIR or ND can incorporate by reference any document that is part of the public record or available to the public (CEQA Guidelines, § 15150, subd. (a)). The incorporated part of the referenced document must be briefly summarized or described (*Id.* at § 15150, subd. (b)).

**Opportunities for Coordination:** NEPA and CEQA both allow incorporation by reference, as long as the referenced material is briefly summarized in the environmental document and is available for public review within the time allowed for comment. Agencies can make referenced material readily available by publishing the relevant materials in an appendix or otherwise making them available to the public. Some techniques that would take the place of publishing the materials in a publicly available appendix include providing a hyperlink to an internet copy of the material or placing material in local libraries or facilities accessible to the public (CEQ, IMPROVING THE PROCESS FOR PREPARING EFFICIENT AND TIMELY ENVIRONMENTAL REVIEWS UNDER THE NATIONAL ENVIRONMENTAL POLICY ACT, 2012, *available at*: [http://ceq.hss.doe.gov/current\\_developments/docs/Improving\\_NEPA\\_Efficiencies\\_06Mar2012.pdf](http://ceq.hss.doe.gov/current_developments/docs/Improving_NEPA_Efficiencies_06Mar2012.pdf)).

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cont.



## 2. When Can Tiering from an EIS/EIR be Used?

If previous environmental documents have already analyzed a particular impact, NEPA and CEQA allow subsequent environmental analysis and documents to tier from an earlier analysis rather than duplicating work.

**NEPA Requirement:** Agencies are encouraged to issue a tiered or subsequent EIS or EA when the environmental issues have been analyzed in a broader (programmatic) NEPA review. The tiered analysis and documentation can thereby focus on specific issues relevant to the subsequent action (40 C.F.R. § 1502.20).

**CEQA Requirement:** CEQA encourages tiering from a broader EIR, like a General Plan EIR, when appropriate. This allows subsequent analyses to focus on project-specific impacts (CEQA Guidelines, § 15152).

**Opportunities for Coordination:** Although NEPA and CEQA allow similar tiering processes, they do not expressly allow the tiering of a CEQA document from a previous NEPA document, nor vice versa. A joint NEPA/CEQA document could tier from a broader joint NEPA/CEQA analysis to take full advantage of the benefits of a tiered analysis. When tiering, the responsible agencies need to ensure that the relevant resource impacts were sufficiently analyzed in the broader joint (programmatic) document when they rely upon that analysis in the subsequent, tiered document.

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cont.



### 3. When Should the Environmental Review Process Begin?

Generally, the environmental review process should begin as early as possible to facilitate timely government decisions and avoid delay. Environmental values should be considered early in the process but late enough that there is sufficient context for the review and information about the proposed action or project to provide a useful analysis.

**NEPA Requirement:** The preparation of environmental reviews shall occur as close as possible to the time an agency begins developing or is presented with a proposal so that the environmental review will serve as an important contribution to the decision making process (40 C.F.R. § 1502.5). A proposal exists when an agency has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal and the NEPA analysis begins when environmental effects can be meaningfully evaluated (40 C.F.R. § 1508.23). Applying NEPA early in the process also ensures that the planning reflects environmental values early, avoiding potential delay later in the process (40 C.F.R. § 1501.2). Environmental reviews should not justify or rationalize decisions already made (40 C.F.R. § 1502.5). Until an agency issues a Record of Decision, regulatory limitations preclude the agency from taking actions during the NEPA process which would (1) have an adverse environmental impact; or (2) limit the choice of reasonable alternatives (40 C.F.R. § 1506.1).

**CEQA Requirement:** EIRs and NDs should be prepared early enough to allow environmental considerations to influence project design and yet late enough to provide meaningful information for environmental review (CEQA Guidelines, § 15004, subd. (b)). California agencies cannot commit to carrying out actions concerning a project that will have significant impacts or limit the choice of alternatives or mitigation measures before a CEQA review is complete.<sup>6</sup>

**Opportunities for Coordination:** Similar to CEQA, CEQ NEPA Regulations forbid project activity during environmental review that would impact the environment or limit alternatives. However, NEPA recognizes that some projects may proceed if they are independently justified, accompanied by their own NEPA review (e.g. Categorical Exclusion, EA, or EIS) and will not prejudice the ultimate decision (40 C.F.R. § 1501.6(c)(1)-(3)).

CEQA recognizes that limited project-related activities may occur prior to completion of environmental review.<sup>7</sup> CEQA review must be complete, however, before California agencies constrain their discretion in any way, particularly regarding the adoption of project alternatives or mitigation measures.

<sup>6</sup> Such activities could include, depending on the circumstances, entering into development and services agreements (See, e.g., *Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116).

<sup>7</sup> Agencies may designate a preferred site for CEQA review and enter into land acquisition agreements when the agency has conditioned the site's further use on CEQA compliance (CEQA Guidelines, § 15004, subd. (b)(2)(A)). Agencies should be aware that environmental review will have to occur for that purchase before it actually takes place (See, *Save Tara, supra*, 45 Cal.4th 116). Depending on the circumstances, an agency may choose to enter into an option agreement rather than a purchase and sale agreement if environmental review has not yet been completed (See, e.g., *Cedar Fair, L.P. v. City of Santa Clara* (2011) 194 Cal.App.4th 1150 (analyzing whether a "term sheet" constituted a project requiring prior CEQA review)).

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cont.



State and Federal agencies should begin NEPA/CEQA procedures as early as possible in their planning processes in order to allow environmental considerations to influence project design. As always, these issues are subject to individual agency regulations regarding implementation of NEPA and CEQA, which could prescribe more stringent requirements than the general regulations.

Experience has shown that critical environmental concerns can often be most efficiently and effectively addressed in early phases of project development; consequently, we recommend:

- - Conduct early, in-depth resource analyses through processes such as the lead agencies' due diligence process or project application submittal. Completing key environmental analyses (e.g. estimation of the extent of state jurisdictional waters and Waters of the U.S., quantification of potential impacts to threatened and endangered species, and identification of compensatory mitigation lands) as early as possible can help determine a project's viability and avoid potential project delays later in the process.
  - Direct applicants, during the early stages of a project application process, to fully consider environmentally-preferable alternatives, including alternate sizes and/or siting locations (e.g., consider any available neighboring disturbed sites). Information regarding the availability of suitable alternative sites not on Federal lands is important for Federal agencies to consider in their assessment of the "No Action" alternative, since it is reasonable to expect that, in the event a Federal land management agency does not approve a proposed right-of-way, a project proponent would consider alternative locations. Consistent resource analyses, across a range of alternatives, should be conducted as early as possible to set the stage for a robust alternatives analysis in the subsequent NEPA process, and to facilitate incorporating environmental improvements into the project design.

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cont.



#### 4. How Can Public Involvement Requirements be Satisfied?

Public involvement in the NEPA and CEQA review process is critical for the overall framework of informed decision making. Public review serves as a check on accuracy in analysis. Public comments inform agencies about public opinions and values. The specific procedures used under the two statutes differ in some ways and need to be followed carefully.

**NEPA Requirement:** CEQ NEPA Regulations require agencies to make diligent efforts to involve the public in implementing their NEPA procedures and preparing environmental reviews (40 C.F.R. § 1506.6). The EA, FONSI, and EIS all have different requirements for public involvement.

EA: Agencies preparing an EA are required to involve “environmental agencies, applicants, and the public, *to the extent practicable*” (emphasis added) (40 C.F.R. § 1501.4(b)). Although public involvement is required, it is up to the individual agencies in their NEPA implementing procedures or agency practice to determine the extent to which they engage the public in preparing an EA. Some agencies engage the public through scoping-like outreach during the development of the EA, while others wait and provide the public an opportunity to review the EA or FONSI. In *Bering Strait Citizens for Responsible Res. Dev. v. U.S. Army Corps of Eng’rs* (9th Cir. 2008) 524 F.3d 938, 953, the Ninth Circuit stated (citing CEQ NEPA Regulations) that the EA must “provide the public with sufficient environmental information, considered in the totality of the circumstances, to permit members of the public to weigh in with their views and thus inform the agency decision-making process.”

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cont.

FONSI: Under 40 C.F.R. § 1501.4(e)(2), agencies have a duty to provide a FONSI for public review for a period of 30 days when “the type of proposed action hasn’t been done before by the particular agency, or . . . the action is something that typically would require an EIS under the agency NEPA procedures.” Otherwise, public review of a FONSI is not required by the CEQ NEPA Regulations.

EIS Notice of Intent and Scoping: An agency begins the EIS process with a Notice of Intent (NOI) stating the agency’s intent to prepare an EIS (40 C.F.R. § 1508.22). This is published in the Federal Register and includes information regarding meetings and information about how the public can get involved. At the scoping level, public involvement is encouraged to help identify impacts and alternatives regarding the proposed project as well as any existing studies or information that can be used during the NEPA review. Using scoping to identify issues that do not require detailed analysis or are not relevant is just as important as identifying those issues that merit detailed analysis. Following scoping, agencies prepare a draft EIS and make it available for public review and comment for a minimum of 45 days (40 C.F.R. § 1506.10, 1503.1(a)(4)).<sup>8</sup> A Notice of Availability is published by the Environmental Protection Agency (EPA) to begin the required review and comment period. During the comment period, agencies may conduct public meetings or hearings to help solicit comments.

<sup>8</sup> Be sure to check the Federal agency’s NEPA implementing procedures to see whether a longer period is required.



Final EIS: Once a Final EIS is complete, the agency files the Final EIS with EPA which publishes a Notice of Availability in the Federal Register. A minimum 30-day waiting period before an agency makes a decision on a proposed action is required by the CEQ NEPA Regulations; however, the agency may designate this as a notice and comment period (40 C.F.R. § 1503.1(b)) and the agency may also provide a longer time period. When an agency provides an administrative appeal process that provides an opportunity to alter the decision, then the agency may make the decision at the same time that the final EIS is published (40 C.F.R. § 1506.10(b)). After the minimum 30 day period, the agency issues a Record of Decision informing the public of the final decision and identifying all alternatives considered in reaching the decision (40 C.F.R. § 1505.2).

Supplemental EIS: In the event the agency needs to prepare a Supplemental EIS, then the same process, including the public review and comment periods, that applies to a regular EIS should be followed, except that scoping is not required. Agencies shall prepare supplements to a draft or final EIS if substantial changes are made to the proposed action that raise environmental concerns; or if there are significant new circumstances or information relevant to environmental concerns (40 C.F.R. § 1502.9(c)(1)(i)-(ii)). Because the NEPA process varies among agencies, a Federal agency's NEPA implementing procedures may provide additional opportunities for public involvement throughout the process.

**CEQA Requirement:** Public participation plays an important and protected role in the CEQA process. (*Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376, 392 ("The EIR process protects not only the environment but also informed self government."); *Concerned Citizens of Costa Mesa, Inc. v. 32nd District Agricultural Association* (1986) 42 Cal.3d 929, 936 (members of the public have a "privileged position" in the CEQA process).)

"Each public agency should include provisions in its CEQA procedures for wide public involvement, formal and informal, consistent with its existing activities and procedures, in order to receive and evaluate public reactions to environmental issues related to the agency's activities. Such procedures should include, whenever possible, making environmental information available in electronic format on the Internet, on a web site maintained or utilized by the public agency" (CEQA Guidelines, § 15201). The lead agency must consider all "comments it receives on a draft environmental impact report, proposed negative declaration, or proposed mitigated declaration" (Cal. Pub. Resources Code, § 21091, subd. (d)(1); CEQA Guidelines, § 15074, subd. (b)). At a minimum, state and local agencies must adhere to the consultation and public notice requirements set forth in the state CEQA Guidelines.

EIR or Negative Declaration: Under CEQA, agencies preparing either a Negative Declaration or an EIR are required to file a Notice of Intent to adopt and provide a public and agency comment period prior to certification (Cal. Pub. Resources Code, § 21092). An agency must provide the public a minimum review period of 20 days for review of a Negative Declaration. However, projects involving a state agency, as a lead, responsible or trustee agency, or projects of

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cont.



statewide, regional, or area-wide significance must be submitted to the State Clearinghouse<sup>9</sup> and require a 30 day comment period (CEQA Guidelines, § 15205, subd. (d)). The review period for a draft EIR “shall not be less than 30 days nor should it be longer than 60 days except under unusual circumstances,” although projects submitted to the State Clearinghouse should have a comment period of at least 45 days (*Id.* at § 15105, subd. (a)). Since review by some state agency is typically required, the longer review period will normally apply.<sup>10</sup>

Under CEQA, lead agencies may provide a review period for the final EIR, but are not required to do so (CEQA Guidelines, § 15089, subd. (b)). Lead agencies must provide proposed responses to public agency comments to those commenting agencies at least 10 days before certifying the final EIR (*Id.* at § 15088, subd. (b)).

**Agency Consultation:** In addition to the public review periods described above, the CEQA Guidelines also provide for consultation with specific agencies under certain circumstances. For example, agencies are required to “consult with all responsible agencies and trustee agencies” prior to determining whether a Negative Declaration or EIR is required (Cal. Pub. Resources Code, § 21080.3). Applicants that request a lease, permit, license, certificate, or other entitlement for use approval by a public agency are entitled, upon their request, to a pre-application consultation period with the lead agency. In such cases, the lead agency is required to consult regarding “the range of actions, potential alternatives, mitigation measures, and any potential and significant effects on the environment” (*Id.* at § 21080.1). If the project is “of statewide, regional or area wide significance,” the lead agency is also required to consult with regional transportation agencies and public agencies that have transportation facilities (*Id.* at § 21092.4). If a public agency submits comments, the lead agency is required to notify that agency in writing of any public hearing for the project going forward (*Id.* at § 21092.5; CEQA Guidelines, § 15073, subd. (e)).

**Scoping:** Additionally, agencies must provide at least one scoping meeting for projects of statewide or area-wide significance for which an EIR will be prepared, and must invite neighboring cities and counties, any responsible agencies, and any agencies with jurisdiction by law over any resources affected by the project (CEQA Guidelines, § 15082). Scoping is also specifically required for joint NEPA/CEQA documents (*Id.* at § 15083).

**Opportunities for Coordination:** In general, comment periods are similar for CEQA and NEPA. Public involvement primarily occurs during scoping, after draft environmental documents are released for public review, and when the lead agency requests public comments.

Timing requirements in the two review processes differ somewhat. Comment periods for Draft EISs are specifically mandated to be no less than 45-days, where EIRs may in some limited

<sup>9</sup> The “State Clearinghouse” is a unit within OPR that is responsible for distributing environmental documents to state agencies, departments, boards, and commissions for review and comment (CEQA Guidelines, § 15023, subd. (c)).

<sup>10</sup> Under certain circumstances, OPR may provide for a shorter review period. Such shorter review may be appropriate where the document is a supplement to a previously reviewed document, or the project is under extreme time constraints (See CEQA Guidelines, Appendix K).

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cont.



circumstances only require a 30-day review period. The review period for EIRs also generally would not exceed 60 days. Remember that the individual Federal agencies' own NEPA implementing procedures may require review periods longer than 45-days.<sup>11</sup> It should be noted that although the CEQA Guidelines provide for an EIR comment period of up to 60 days, barring "unusual circumstances," a Federal agency requiring a longer comment period would likely qualify as an unusual circumstance that would permit a CEQA agency to extend its comment period.<sup>12</sup>

Finally, a Record of Decision (ROD) may only be issued 30 days after the Notice of Availability of a Final EIS and 90 days after the Notice of Availability for a Draft EIS have been published (40 C.F.R. § 1506.10(b)(1)-(2)).

In cases where agencies have formal internal appeals, an exception to the rules on timing may be made (40 C.F.R. § 1506.10(b)(2)). Likewise, "an agency engaged in rulemaking under the Administrative Procedure Act or other statute specifically for the purpose of protecting the public health or safety, may waive the time period" and publish a decision of the final rule simultaneously with the publication of the notice of availability of final EIS (*Ibid.*).

Where possible, joint NEPA/CEQA documents should attempt to provide a unified public participation process, including jointly conducted public hearings, comment periods and final review periods. Both NEPA and CEQA regulations recommend joint public hearings that would meet both agencies' requirements (40 C.F.R. § 1506.2(b); CEQA Guidelines, § 15226). When combining documents and analyses, agencies must adhere to the strictest requirements. At a minimum, a joint FONSI/Negative Declaration document requires an initial filing of a Notice of Intent to adopt the proposed declaration. Subsequently, 30 days of public and agency comment prior to certification would also be required to ensure that the CEQA requirement is met. A joint draft EIS/EIR document requires 45 days for public review and comment to ensure the NEPA requirement is met. Lastly, the joint NEPA/CEQA documents should also comply with CEQA's consultation requirements outlined above. As a practical matter, the agencies should keep in mind that cultivating active public participation and responding to public concerns about projects can help to minimize the risk of legal challenge and protracted litigation.

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cont.

<sup>11</sup> For instance, the BLM's internal guidance calls for a 45 day comment period for most Draft EIS's (Interior Departmental Manual 516 4.26), but a 90 day comment period is required for Draft EIS's amending a BLM land use plan (BLM Land Use Planning Handbook H-1601-1).

<sup>12</sup> Note that section 15105 of the CEQA Guidelines states that the comment period "should" not be longer than 60 days. The CEQA Guidelines use the word "should" to indicate that the directive is strongly suggested absent countervailing policies.



## 5. What Other Timelines Apply to Environmental Review Schedules?

Both NEPA and CEQA provide for developing schedules to guide the review processes. However, the mandatory requirements differ between the two processes.

**NEPA Requirement:** NEPA regulations require few mandatory timelines. Under 40 C.F.R. § 1501.8, agencies are encouraged to and, “shall set time limits if an applicant for the proposed action requests them” (40 C.F.R. § 1501.8(a)). Factors an agency may consider when setting time lines include the potential for environmental harm, magnitude of the proposed project, public need for the project etc. (See 40 C.F.R. § 1501.8(b)(1)(i)-(viii)). Similarly, an agency may set timelines regarding the process such as scoping, preparation of draft EIS, review of comments, preparation of final EIS, etc. (See 40 C.F.R. § 1501.8(b)(2)(i)-(vii)).

**CEQA Requirement:** CEQA is intended to be implemented in conjunction with other planning and review processes. Two statutory timeframes can affect the CEQA process. First, the CEQA Guidelines set deadlines for completing and certifying a Negative Declaration or EIR for a private project, barring unreasonable delay by an applicant (CEQA Guidelines, §§ 15107-15109). However these provisions do not apply to projects with Federal involvement, as the lead agency may waive the Negative Declaration or EIR deadline at the request of an applicant (Cal. Gov. Code, § 65954; CEQA Guidelines, § 15110).

Second, the California Permit Streamlining Act (Cal. Gov. Code, § 65920 et seq.) (PSA) also sets time limits on how much time a state or local agency has to accept an application as complete before the CEQA process begins, and to make a decision following the completion of the CEQA process (Cal. Gov. Code, § 65950). For projects that are subject to the PSA, the agency must approve or deny the application within 90 to 180 days of EIR certification or within 60 days of adoption of a Negative Declaration of a finding of exemption (*Ibid*).

An environmental document will not be deemed approved based on an agency’s failure to meet the CEQA deadlines. Case law treats CEQA deadlines as directory, not mandatory.<sup>13</sup>

**Opportunities for Coordination:** The only set time periods under NEPA are the public review and comment periods following the Notice of Availability of a Draft or Final EIS. NEPA does not set time periods for the overall review.<sup>14</sup> Certain projects submitted to California agencies for review by non-agency proponents may be subject to the provisions of the PSA, which requires accelerated timetables in order to speed permit issuance. However, the PSA specifically states that accelerated timetables do not apply when there are longer Federal timelines. Further, the PSA timelines for project consideration under CEQA, the decision on the proposed action under NEPA, do not begin to run until after the joint NEPA/CEQA process is complete.

<sup>13</sup> *Eller Media Co. v. City of Los Angeles* (2001) 87 Cal.App.4th 1217, 1221.

<sup>14</sup> Recent legislation specific to surface transportation projects does set overall timelines (MAP-21, Transportation Reauthorization 2012).

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cont.



### C. Stage 3: Preparing the NEPA and CEQA Analyses and Documentation

#### 1. How Can Purpose and Need and Project Objectives be Aligned?

Both NEPA and CEQA agencies must include a statement in the environmental document explaining why the agency is considering a particular action or project. This is particularly important when the objectives of multiple agencies are not identical.

**NEPA Requirement:** The NEPA regulations require a description of “the underlying purpose and need to which the agency is responding” in considering a project (40 C.F.R. § 1502.13).

**CEQA Requirement:** The CEQA Guidelines require the description of a project in an EIR to include a “statement of objectives sought by the proposed project (CEQA Guidelines, § 15124, subd. (b)).”

**Opportunities for Coordination:** Under both CEQA and NEPA, the purpose and need/project objectives provide similar functions: to explain why the project is being considered and assist in the decision making process. Significantly, both the purpose and need and the project objectives help determine which alternatives are considered in the environmental analysis. Different agencies considering a project may have different missions or authorities, which in turn could create different goals for a single project. Furthermore, lead agencies should cooperatively review proposed project purpose and need and project objectives statements with other participating or cooperating agencies that have jurisdiction and decision making roles for the proposed action. This will provide an opportunity to accommodate the needs of all agencies responsible for making a decision needed for the project to proceed by including all project relevant NEPA and CEQA requirements in the joint document.

Where the involved Federal and state/local agencies do not share the same objectives, a joint document may describe the Federal agency’s purpose and need and the CEQA project objectives in separate sections. These sections can be accompanied by an explanation of why the agencies’ goals differ (e.g., that their statutory authorities or obligations require a different focus). Such an explanation will also help explain any differences in the alternatives considered by the Federal and state agencies (See below, Q&A, ARE EIS/EIR ALTERNATIVES CONSISTENT?).

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## 2. Are EIS/EIR Alternatives Consistent?

Both CEQA and NEPA require analysis of alternatives to the proposal before the agency. The alternatives can be approached the same way for both, but each law requires certain matters to specifically be addressed. Differences may arise over the number or range of alternatives that agencies consider feasible and the level of detail in which alternatives are discussed.

**NEPA Requirement:** Analysis of an agency's alternatives, including the proposed action, are "the heart of the environmental impact statement" (40 C.F.R. § 1502.14). NEPA regulations require an agency to "rigorously explore and objectively evaluate all reasonable alternatives" (40 C.F.R. § 1502.14(a)), to devote substantial treatment to each alternative (40 C.F.R. § 1502.14(b)), to identify the preferred alternative where one or more exists (40 C.F.R. § 1502.14(e)), and to present the environmental impacts of the proposed action and the alternatives in comparative form to sharply define the issues and provide a clear basis for a choice among alternatives by the decision maker and the public. Other requirements include:

- Providing a "no action" alternative (40 C.F.R. § 1502.14(d));
- Explaining why any alternatives were eliminated from detailed analysis (40 C.F.R. § 1502.14(a));
- Identifying the environmentally preferred alternative (40 C.F.R. § 1502.14(e)).

When determining the scope of an environmental review, the CEQ NEPA Regulations require an agency to consider three types of alternatives. The three alternatives include the no action alternative, other reasonable courses of action, and mitigation measures that are not an element of the proposed action (40 C.F.R. § 1508.25(b)(1)-(3)).

When an agency has concluded an EIS, the decision is recorded in a public ROD (40 C.F.R. § 1505.2). The ROD needs to "identify all alternatives considered by the agency in reaching its decision, specifying the alternative or alternatives which were considered to be environmentally preferable" (40 C.F.R. § 1505.2(b)). The agency must discuss *all* factors essential to the agency decision and discuss how those factors influenced the agency's decision (40 C.F.R. § 1505.2(b)).

In addition to discussion of alternatives, the ROD shall state "whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted and if not, why they were not" (40 C.F.R. § 1505.2(C)). Finally, the preferred alternative is not necessarily the environmentally superior alternative. Nothing in NEPA requires that the agency's preferred alternative must have the least environmental impact.

**CEQA Requirement:** CEQA also requires analysis of a reasonable range of alternatives to the proposed project to foster informed decision making and public participation (CEQA Guidelines, § 15126.6, subd. (a)). CEQA states that, "[t]he EIR shall include *sufficient information* about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project. A matrix displaying the major characteristics and significant environmental effects of each alternative may be used to summarize the comparison. If an alternative would cause one or

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more significant effects in addition to those that would be caused by the project as proposed, the significant effects of the alternative shall be discussed, *but in less detail than the significant effects of the project as proposed*” (emphasis added) (*Id.* at § 15126.6). The alternatives need only “include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project” (*Id.* at § 15126.6, subd. (d)). Other requirements include:

- Providing a “no project” alternative (*Id.* at § 15126.6, subd. (e));
- Explaining why rejected alternatives are considered infeasible (*Id.* at § 15126.6, subd. (c)); and
- Identifying the agency’s “environmentally superior alternative.” If the environmentally superior alternative is the “no project” alternative, then the EIR must identify an environmentally superior alternative among the other alternatives” (*Id.* at § 15126.6, subd. (e)(2)).

**Opportunities for Coordination:** The framework for considering alternatives to a proposal as a means of reducing environmental impacts is similar under NEPA and CEQA. The “no action” and “no project” requirements are functionally the same and should examine the reasonably foreseeable consequences of not taking the proposed action. They serve the purpose of describing the current and future state of the potentially affected environment without considering the potential impacts of the proposed action or project.

In practice, the NEPA standard of “devoting substantial treatment” to each alternative tends to result in a more detailed look at alternatives. On the other hand, the CEQA focus on mitigation, requires CEQA “reasonable” alternatives to include those that “are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly” (CEQA Guidelines, § 15126.6, subd. (b)). NEPA alternatives are generally restricted to those that meet the agency’s purpose and need (40 C.F.R. § 1502.13); however, mitigation alternatives should be considered (40 C.F.R. § 1508.25(b)(3)). Reasonable alternatives include those that are practical or feasible from the technical and economic standpoint and using common sense, rather than simply being desirable from the standpoint of the applicant (NEPA’s 40 Most Asked Questions, 19b, *available at*, <http://ceq.hss.doe.gov/nepa/regs/40/40p3.htm>).

Consequently, in practice, an EIS may contain the analysis of fewer alternatives but in more detail than an EIR. Furthermore, differing purpose and need and objectives statements (see above, Q&A) can lead to different ranges of alternatives. An alternative that meets the objectives of one agency may not be consistent with the purpose and need of another agency, and those differences should be explained in a joint document.

Since joint documents must satisfy the requirements of both NEPA and CEQA, joint EIS/EIRs should meet the NEPA standard for level of detail in describing the alternatives and their impacts, as there is nothing in CEQA to prevent an agency from providing a more detailed alternatives description than is customary. Such alternatives should also represent a range of alternatives, including alternatives that would lessen any significant effects associated with the proposed project. If an agency believes it must analyze a particular alternative, but that

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alternative is not considered reasonable by another agency, one strategy would be to label that particular alternative as a NEPA-only or CEQA-only alternative, explaining why one agency is considering it but the other agency is not.<sup>15</sup>

A robust range of reasonable alternatives will include alternatives for avoiding significant environmental impacts and quantifying those impacts where possible can facilitate the comparison between alternatives. Examples of alternatives considered in recent NEPA and CEQA reviews for California energy projects include:

- Considering reduced acreage, reduced megawatt and modified footprint alternatives, as well as alternative sites that focus on disturbed sites, degraded sites, contaminated sites, and fallow or impaired agricultural lands;
- Considering alternative generating technologies and providing a description of the benefits associated with those technologies; and
- Considering relocating portions of the project in other areas, including private land, to reduce environmental impacts.

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<sup>15</sup> Agencies should consider the utility of analyzing alternatives that are not considered reasonable by one or more agencies, and therefore presumably could not be implemented. NEPA does allow agencies to consider alternatives outside their jurisdiction if those alternatives are reasonable (40 C.F.R. § 1502.14(c)).

### 3. How Should Environmental Impacts/Effects/Consequences be Considered?

A key requirement of both NEPA and CEQA is the analysis of a project's environmental impacts. Generally the analysis of impacts under one law will meet the requirements of the other. However, the individual laws include slightly different issues in their lists of subjects to be addressed.

**NEPA Requirement:** The CEQ NEPA regulations use the terms “effects” and “impacts” synonymously. The environmental consequences section of an EIS must discuss direct and indirect impacts of the proposed project (40 C.F.R. § 1502.16(a)-(b)). The regulations define “effects” as “direct effects, which are caused by the action and occur at the same time and place” (40 C.F.R. § 1508.8(a)). Indirect effects include effects “later in time or farther removed in distance, but are still reasonably foreseeable” (40 C.F.R. § 1508.8(b)). “Indirect effects may include growth-inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems” (40 C.F.R. § 1508.8). Finally, cumulative impacts must be considered. A “cumulative impact” is the environmental impact resulting from the incremental impact of the action when added to other past, present and reasonably foreseeable future actions that can result from individually minor but collectively significant actions taking place over a period of time (40 C.F.R. § 1508.7).

Impacts should be addressed in proportion to their significance (40 C.F.R. § 1502.2(b)), meaning that severe impacts should be described in more detail than less consequential impacts. This is intended to help decision makers and the public focus on the project's key effects. The NEPA regulations explicitly require certain impacts to be discussed, including:

- Irreversible or irretrievable commitment of resources (40 C.F.R. § 1502.16);
- Tradeoffs between short term uses of the environment and long term productivity (40 C.F.R. § 1502.16); and
- Energy requirements and conservation potential of alternatives (40 C.F.R. § 1502.16(e)).

Effects include “ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative.” Effects may also be both beneficial and detrimental (40 C.F.R. § 1508.8).

Effects are measured against the “no action alternative” (CEQ, “Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations,” Answer to Question 3 (the “no action alternative” analysis “provides a benchmark, enabling decisionmakers to compare the magnitude of environmental effects of the action alternatives”)).

**CEQA Requirement:** CEQA focuses on adverse environmental changes (CEQA Guidelines, § 15382). The environmental impacts section of an EIR also must consider direct and indirect impacts of the project (Cal. Pub. Resources Code, § 21065.3). EIRs should focus on significant

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impacts (CEQA Guidelines, § 15126.2, subd. (a)). Impacts that are less than significant need only be briefly described (*Id. at* § 15128). All potentially significant effects must be addressed. Impacts are normally to be measured against the environmental setting, which the CEQA Guidelines define to mean “physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, from both a local and regional perspective” (*Id. at* § 15125, subd. (a)).<sup>16</sup>

To assist lead agencies in evaluating all impacts, Appendix G of the CEQA Guidelines provides an environmental checklist that informs the framing of the analysis.<sup>17</sup> In addition, the CEQA Guidelines specifically require consideration of:

- Impacts of greenhouse gas emissions (CEQA Guidelines, § 15064.4);
- Energy Impacts (*Id. at* Appendix F);
- Impacts associated with placing projects in hazardous locations (*Id. at* § 15126.2, subd. (a)),<sup>18</sup>
- Growth-inducing impacts (*Id. at* § 15126.2, subd. (d));
- Irreversible significant environmental impacts for some types of projects, including those requiring an EIS under NEPA (Cal. Pub. Resources Code, § 21100, subd. (b)(2); CEQA Guidelines, § 15127, subd. (c)).

Individual agencies may also specify particular types of analysis that must be performed. For example, the California Energy Commission has specific regulations, discussed further in Section IV, below (20 CCR § 1743).

**Opportunities for Coordination:** Both laws encourage an environmental document to focus on the most consequential potential impacts. CEQA agencies often structure their impact analysis around the environmental factors listed in Appendix G of the CEQA Guidelines. However, this checklist is only a sample form, and does not encompass all possible impacts that a project might have (See, e.g., *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099). Similarly, the CEQ NEPA Regulations describe potential effects broadly and call for the lead agency to focus the analysis on the relevant effects.

<sup>16</sup> The California Supreme Court recently addressed when it is appropriate to depart from use of existing conditions to analyze impacts and instead rely on projected future conditions. The Court explained: “Projected future conditions may be used as the sole baseline for impacts analysis if their use in place of measured existing conditions—a departure from the norm stated in Guidelines section 15125(a)—is justified by unusual aspects of the project or the surrounding conditions. ... [A]n agency does have discretion to completely omit an analysis of impacts on existing conditions when inclusion of such an analysis would detract from an EIR’s effectiveness as an informational document, either because an analysis based on existing conditions would be uninformative or because it would be misleading to decision makers and the public” (*Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2013) 57 Cal.4th 439, 451-452).

<sup>17</sup> [http://opr.ca.gov/docs/Initial\\_Study\\_Checklist\\_Form.pdf](http://opr.ca.gov/docs/Initial_Study_Checklist_Form.pdf).

<sup>18</sup> The validity of CEQA Guidelines section 15126.2(a), to the extent that it would require analysis of the impacts of the environment on a project, was called into question in *Ballona Wetlands Land Trust v. City of Los Angeles* (2011) 201 Cal.App.4th 455.

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The regulations governing the content of NEPA and CEQA accommodate joint analysis of environmental impacts. Even requirements that are specific to one law can be applied to both. For instance, NEPA has no explicit requirement to analyze a proposed action's greenhouse gas emissions. However, nothing precludes a Federal agency from analyzing greenhouse gases—indeed, if the project will have emissions, a good NEPA analysis would analyze these impacts regardless of CEQA requirements. Similarly, issues raised in a NEPA analysis of environmental justice would be appropriately addressed in the environmental setting and cumulative impacts analysis of a CEQA document. When the combined document addresses an issue that either NEPA or CEQA would not typically require, that analysis can be labeled as a NEPA-only or CEQA-only analysis.

Finally, agencies may reach different conclusions about the extent of some impacts, complicating the drafting of the environmental impacts section (See below, discussion of Significance). For example, different conclusions may result when the existing conditions used for the CEQA analysis are different from the affected environment under the “no action alternative” used for the NEPA analysis. Obviously, open communication between agencies throughout the analysis of impacts will help to minimize these conflicts. If there is a difference in the document, then the differences should be explained. It is good practice to have both agencies disclose differences in methodology and assumptions, and to explain their respective approaches in the documents so that the public and decision makers understand why there is a difference. However, agencies may also wish to discuss this scenario at the beginning of a joint process and agree on how to manage such a disagreement. Agencies should consider memorializing such a process in their MOU. Such up front discussions will help resolve conflicts that arise late in the process when deadlines are looming.

NEPA and CEQA review of large projects can necessitates numerous, detailed technical reports, studies and data collection, as well as secondary review and approval. Moreover, in terms of time and cost, these technical studies and secondary reviews approach or exceed the cost of preparing the actual environmental document. While each agency is responsible for fulfilling its own directives, improved integration between analogous state and federal regulations and guidelines would help reduce compliance costs.



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#### 4. How Should Cumulative Impacts be Considered?

Analyzing a project's cumulative impacts can be one of the most challenging tasks in an environmental review. Both CEQA and NEPA require cumulative impact analysis.

**NEPA Requirement:** NEPA defines a cumulative impact as an "impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions" (40 C.F.R. § 1508.7). The CEQ NEPA Regulations do not provide specific criteria for a cumulative impact analysis, but the CEQ has produced a handbook and guidance for doing cumulative effects analysis. The handbook recommends temporally and spatially bounding the analysis by establishing a geographic scope and time frame that addresses past, present, and reasonably foreseeable projects that could combine with the proposed action to create cumulative impacts (CEQ, CONSIDERING CUMULATIVE EFFECTS UNDER THE NATIONAL ENVIRONMENTAL POLICY ACT, 1997, *available at*:

[http://ceq.hss.doe.gov/publications/cumulative\\_effects.html](http://ceq.hss.doe.gov/publications/cumulative_effects.html)). Furthermore, CEQ guidance states the CEQ NEPA Regulations do not require agencies to catalogue or exhaustively "list or analyze all individual past actions unless such information is necessary to describe the cumulative effect of all past actions combined" (CEQ, GUIDANCE ON THE CONSIDERATION OF PAST ACTIONS IN CUMULATIVE EFFECTS ANALYSIS, 2005, *available at*:

[http://ceq.hss.doe.gov/nepa/regs/Guidance\\_on\\_CE.pdf](http://ceq.hss.doe.gov/nepa/regs/Guidance_on_CE.pdf)).

**CEQA Requirement:** CEQA defines a cumulative effect as "two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts" (CEQA Guidelines, § 15355). The environmental document should focus on instances in which the proposed project would incrementally contribute to a significant cumulative impact. It need not discuss cumulative impacts that are not significant in detail beyond justifying this determination, nor must it consider cumulative effects to which the proposed project does not contribute (*Id.* at § 15130, subd. (a)).

Discussion of cumulative impacts should reflect those impacts' severity and likelihood of occurrence. The analysis may not require the same level of detail as the discussion of effects attributable to the project alone (CEQA Guidelines, § 15130, subd. (b)). The analysis should define and justify the geographic scope of the area affected by the cumulative impact (*Id.* at § 15130, subd. (b)(3)). The analysis may rely on considerations of past, present, or probable future projects producing related or cumulative effects, including projects outside the agency's control, or may rely on projections of future effects contained in specified plans (*Id.* at § 15130, subd. (b)(1)(A)). CEQA also does not require agencies to catalogue or exhaustively list or analyze all individual past actions.

The CEQA Guidelines explicitly allow the cumulative effects analysis to be less detailed than the discussion of effects attributable to the project alone; however, a sufficient amount of detail to adequately apprise the public and decision-makers of a project's cumulative effects must be provided and so will depend on the circumstances surrounding the project and the impact at issue.

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**Opportunities for Coordination:** The CEQA Guidelines and the CEQ NEPA Regulations, CEQ handbook, and guidance spell out similar cumulative impact analysis procedures:

- The analysis should address past, present, and reasonably foreseeable/probable future projects that could combine with the impacts of the proposal at hand;
- The agencies should define and justify the geographic scope of possible cumulative effects for each affected resource;
- The agencies should define and justify the temporal scope of possible cumulative effects for each affected resource by establishing a timeframe which covers the reasonably foreseeable duration of the effects; and
- A greater emphasis should be placed on those impacts that will be more severe, to focus public review.

The main difference is the level of detail required for the analysis. To ensure compliance with both laws, the cumulative impact analysis may need more detail than California agencies typically provide under CEQA.

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## 5. What are the Differences in Determining Significance?

NEPA and CEQA have a shared purpose of identifying significant environmental impacts. They have slightly different, although not incongruous, definitions, and approaches to determining significance.

**NEPA Requirement:** The NEPA regulations define significance in terms of context and intensity. Context refers to the need to consider impacts within the setting in which they occur (40 C.F.R. § 1508.27(a)). Intensity refers to the severity of the impact, with 10 non-exclusive criteria to consider specified in the regulations (*Id.* at § 1508.27(b)). If an agency determines that an action will have one or more significant impacts on the environment, it must prepare an EIS (42 U.S.C. § 4332(c)).

**CEQA Requirement:** The CEQA Guidelines define a significant impact as “a substantial, or potentially substantial, adverse change within the area affected by the project” (CEQA Guidelines, § 15382). The CEQA Guidelines encourage agencies to adopt their own thresholds for what constitutes a significant impact (*Id.* at § 15064.7, subd. (a)). A “threshold of significance” is “an identifiable quantitative, qualitative, or performance level of a particular environmental effect, non-compliance with which means the effect will normally be determined to be significant by the agency and compliance with which means the effect normally will be determined to be less than significant” (*Id.* at § 15064.7). Thus, some state or local agencies may have specific definitions of significance for particular resources or impacts. Even in the absence of adopted thresholds, CEQA requires an agency to evaluate the factual and scientific data to determine whether an impact may be significant. The determination of significance may depend to some degree on the project’s context (*Id.* at § 15064, subd. (b)). CEQA documents also must explicitly identify each impact the agency has determined to be significant (*Id.* at § 15126.2, subd. (a)). These significance determinations must be “based on substantial evidence in the record” (*Id.* at § 15064, subd. (f)). For the purposes of determining whether an EIR must be prepared, the CEQA Guidelines identify certain circumstances in which a lead agency must find that a project may have a “significant effect on the environment” (*Id.* at § 15065).

**Opportunities for Coordination:** NEPA and CEQA define significance in different terms. Therefore, NEPA and CEQA agencies tend to treat significance differently in their environmental documents.

CEQA and NEPA practices can be aligned in a joint environmental document by explaining which significance determinations are being made. Specific significance determinations should then be set forth in the document. The Federal and state agencies can describe each specific impact in common language that is consistent with both NEPA and CEQA practice. Following each description, the agencies should include a section in which the determination is made and explained.

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## 6. When Should an EIS/EIR be Supplemented or Re-Released?

Under NEPA and CEQA, agencies consider a similar set of circumstances under which an environmental document must be re-released for public and agency review when new information becomes available after publication of the draft or final document.

**NEPA Requirement:** NEPA dictates a process for incorporating new information into an already published EIS called supplementation. A supplemental EIS must be prepared if there are “substantial changes in the proposed action” relevant to environmental concerns, or “significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts” (40 C.F.R. § 1502.9(c)(1)). The supplement should focus on the new information (40 C.F.R. § 1502.9(c)(1)). The CEQ has clarified that new alternatives outside the range of alternatives already analyzed would trigger the requirement for a supplemental review (NEPA’s 40 Most Asked Questions, 29b). Supplements may be prepared for either draft or final EISs.

Although scoping is not required, an agency must publish the draft Supplemental EIS for public review and comment before issuing a final EIS (40 C.F.R. § 1502.9(c)(4)). Agencies conducting NEPA reviews also need to be sure to have support in their administrative record for their decisions on whether and how to supplement to ensure those decisions are not arbitrary and capricious.

**CEQA Requirement:** CEQA provides a similar process for recirculation of draft documents, and supplementation of certified final documents. An agency must recirculate an EIR when “significant new information” is added after the draft EIR is made available for public review, but before the lead agency certifies the final EIR. Significant new information can include changes to the project or circumstances surrounding the project leading to a new significant environmental impact, a substantial increase in severity of an impact, or another feasible alternative that would reduce impacts and is considerably different from other alternatives (CEQA Guidelines, § 15088.5, subd. (a)). Recirculation is not necessary for new information that merely clarifies, amplifies, or makes insignificant modifications to information that was already presented to the public (*Id.* at § 15088.5, subd. (b)). An agency must provide adequate notice of a recirculation (*Id.* at § 15088.5, subd. (d)), and if the new information only affects a few sections of the EIR, only those sections must be recirculated (*Id.* at § 15088.5, subd. (c)).

Following certification of an EIR, new information will only trigger a subsequent or supplemental EIR in limited circumstances. Supplemental review is required only if (1) the project requires a further discretionary approval and (2) new information reveals that the project will cause a new or substantially more severe impact or that mitigation measures or alternatives would substantially reduce one or more significant impacts, but the project proponent declines to adopt such measures or alternatives (CEQA Guidelines, § 15162). Where new information triggers the need for supplemental review, no further discretionary approvals may be granted until after the supplemental review is completed. Minor changes in the project or project circumstances that do not trigger the requirements for supplemental review can be addressed in

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an addendum to a previously adopted negative declaration or certified EIR (*Id.* at § 15164). An addendum need not be circulated for additional public or agency review.

The CEQA guidelines include an explicit standard for supporting a decision not to recirculate new information with “substantial evidence.”

**Opportunities for Coordination:** Under both NEPA and CEQA, recirculation/supplementation is needed when any of the following occur:

- substantial changes to the proposal itself;
- a new alternative arises outside the range of those already analyzed; or
- any other new information arises that would significantly change the analysis of impacts.

What constitutes “significant” or “substantial” new information may be interpreted differently. It is possible that NEPA and CEQA agencies may reach different conclusions on the need to supplement or recirculate an analysis. Agencies should discuss how they will handle this type of disagreement before embarking on a joint process, rather than trying to manage it ad hoc when the issue arises and time may be short. Agencies may wish to memorialize a process for sorting out such disagreements in their MOU.

Both NEPA and CEQA require similar notice and public review procedures, and both require the agency to only recirculate the new information as long as the original EIS or EIR being supplemented/ recirculated is available to the public.

The two laws’ requirements for recirculating/supplementing environmental documents are similar enough that agencies presented with new information or project changes should generally treat that information the same way (i.e., by supplementing or substantiating their determination not to). Just as with the draft EIS/EIR, agencies should be able to release a joint supplemental analysis with a joint public review period.

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## 7. How do Mitigation Requirements Differ?

Both NEPA and CEQA require consideration in environmental analyses of ways to lessen a project's adverse environmental impacts. NEPA and CEQA differ, however, on whether such mitigation must actually be adopted as part of a project approval.

**NEPA Requirement:** Under NEPA, mitigation includes avoiding, minimizing, rectifying, reducing over time, or compensating for an impact (40 C.F.R. § 1508.20). CEQ guidance says that "all relevant, reasonable mitigation measures that could improve the project are to be identified," including those outside the agency's jurisdiction (NEPA's 40 Most Asked Questions, 19b, *available at*, <http://ceq.hss.doe.gov/nepa/regs/40/40p3.htm>). An agency is not limited to considering mitigation only for significant impacts. It should identify feasible measures for *any* adverse environmental impacts, even those that are not considered significant (40 C.F.R. § 1502.16(h)).

The CEQ NEPA Regulations do not require an agency to *impose* identified mitigation measures for an environmental impact. When an agency determines it can mitigate impacts so that they are not significant, then the agency can provide a commitment to ensure that mitigation is performed and conclude the NEPA review with a mitigated FONSI. If the agency does not commit to the mitigation, it can proceed to an EIS. If an agency does not adopt a feasible mitigation measure in an EIS, it must justify its decision. If it does adopt mitigation measures, then it must put in place a mitigation monitoring and enforcement program and, where applicable, that program should be summarized in the ROD (40 C.F.R. § 1505.2(c)).

**CEQA Requirement:** CEQA defines mitigation the same way as NEPA (CEQA Guidelines, § 15370). An EIR must describe feasible mitigation measures for significant adverse impacts (*Id.* at § 15126.4, subd. (a)(1)), and the agency must adopt feasible mitigation measures or alternatives to substantially lessen the significant effect before approving the project (Cal. Pub. Resources Code, §§ 21002 & 21002.1). "Feasible" means "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors" (CEQA Guidelines, § 15364). Mitigation measures may also be adopted, but are not required, for environmental impacts that are not found to be significant (*Id.* at § 15126.4, subd. (a)(3)). When a lead agency relies on mitigation measures to avoid preparation of an EIR, those proposed measures must be circulated for public review with a proposed mitigated negative declaration prior to adoption of the project (*Id.* at § 15070, subd. (b)(1)). A mitigation monitoring program must also be adopted to ensure measures are implemented (*Id.* at § 15097, subd. (a)).

**Opportunities for Coordination:** The term "mitigation" means the same thing to NEPA and CEQA agencies for purposes of meeting their NEPA and CEQA responsibilities.<sup>19</sup> There are two significant differences related to mitigation between NEPA and CEQA:

<sup>19</sup> The definition of mitigation may not be the same for other substantive environmental laws, such as the federal and California Endangered Species Acts.

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- 1) CEQA requires that any feasible mitigation measures that can reduce a significant impact be adopted, while NEPA does not (as long as the agency justifies its decision not to adopt feasible measures); and
- 2) CEQA mitigation requirements apply only to adverse environmental impacts found to be significant, while NEPA's regulations apply to any adverse impacts, even if not significant.

Agencies should make sure they are clear with each other and with the public about who is proposing each mitigation measure and who would monitor and enforce measures that are adopted.

Agencies should discuss whether a joint monitoring program would be efficient. CEQA agencies used to focusing on mitigating only significant impacts will need to expect a broader approach in joint documents, as NEPA agencies must at least consider mitigation for all adverse impacts. NEPA agencies, in turn, should be aware of the CEQA requirement to mitigate significant impacts if feasible.

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## D. Stage 4: The Decision

### 1. How Do Agencies Document Their Final Environmental Decision Making?

Federal and California agencies must make certain findings regarding environmental effects when they make a decision at the end of the process.

**NEPA Requirement:** When an EA and FONSI are prepared, the lead agency must determine either that there are no significant impacts or that any significant impacts can be mitigated so that they are no longer significant (40 C.F.R. § 1508.13). When a mitigated EA/FONSI is prepared, the lead agency should adopt a mitigation monitoring and reporting program (CEQ Guidance, Appropriate Use of Mitigation and Monitoring and Clarifying the Appropriate Use of Mitigated Findings of No Significant Impact, January 14, 2011).

When an EIS is prepared, NEPA requires lead agencies to prepare a ROD setting forth the agency's decision on the project, describing the alternatives considered, and stating whether mitigation measures have been adopted (40 C.F.R. § 1505.2). When an EIS has been prepared, the ROD cannot be issued until 30 days after the Federal Register publishes EPA's Notice of Availability of the Final EIS.

**CEQA Requirement:** CEQA requires a lead agency to adopt several sets of determinations prior to approving a project. Where an Initial Study and Negative Declaration were prepared for the project, the lead agency must determine that there is no substantial evidence that the project may cause a significant effect. Where a Mitigated Negative Declaration was prepared, the lead agency must also adopt a mitigation monitoring and reporting program (CEQA Guidelines, § 15074).

CEQA requires agency decisions to be made with varying degrees of formality. When the statute or the guidelines uses the term "determine" or "determination," the agency can simply announce a conclusion on an issue so long as there is evidence in the record to support that conclusion. With regard to *each* significant effect identified in an EIR, the agency must make a formal written finding at the end of the process (Cal. Pub. Resources Code, § 21081; CEQA Guidelines, § 15091). The agency must state one of three possible statutory conclusions in written findings, explain briefly why that conclusion was reached, and have support in the record for the conclusion.

The three possible conclusions are: (1) that changes have been made or conditions required in the project that will avoid or reduce the significant effect to a level of less than significant; (2) that the changes are within the responsibility of another agency; or (3) that no changes are feasible. If a significant effect can be changed to less than significant with mitigation measures alone, the findings do not need to address alternatives (*Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376, 400-403). However, if mitigation alone leaves even one effect remaining significant, the agency must make a formal written finding as to the feasibility of each alternative (*Citizens for Quality Growth v. City of Mount Shasta* (1988) 198 Cal.App.3d 433, 445).

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cont.



Where changes were made or required in a project to lessen the significant effects shown in an EIR, the agency must adopt a mitigation monitoring and reporting program (CEQA Guidelines, § 15091, subd. (d)). If the project as approved will result in any effects that cannot be reduced to less than a significant level, the agency must adopt a statement of overriding considerations explaining why the benefits of the project outweigh its remaining significant and unavoidable effects (*Id.* at § 15093).

Within five days of project approval, an agency must file a Notice of Determination (*Id.* at § 15094).

**Opportunities for Coordination:** Both Federal and California agencies must make certain findings prior to making the decision on the proposed project. Federal findings under NEPA are the determination there are no significant impacts when preparing an EA which is documented in a FONSI, or the determinations are documented in a ROD. Those findings are generally supported with information developed during the environmental review process. The specific findings that CEQA requires, however, will drive how California agencies conduct the review process. For example, CEQA documents must identify whether impacts are significant because that finding triggers the duty to mitigate or avoid such impacts. Doing so also determines which impacts must be addressed in the agency's findings, since findings are not required for less than significant effects.

Federal and California agencies must each present their own findings to their decision-makers. The Federal EA/FONSI and ROD and the CEQA findings are not joint documents. The findings are the separate responsibility of each agency explaining its own decision. However, joint work is needed to make sure there is information in the administrative record to support the findings. Agencies should coordinate with each other to make sure that their individual decisions are not incompatible with the decisions of the other agencies involved with the project. Agencies should collectively discuss how they will handle this type of disagreement, should it arise, before embarking on a joint process, rather than trying to manage it ad hoc when the issue arises and time may be short. Agencies may wish to memorialize a process for sorting out such disagreements in their MOU.

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cont.



## 2. Which Statute of Limitations Will Apply?

The statutes of limitations for legal challenges to CEQA and NEPA decisions are different.

**NEPA Requirement:** NEPA challenges are generally raised under the Administrative Procedure Act (5 U.S.C. § 551 et seq. (hereinafter APA)), focusing on final decisions and whether they are in compliance with the law and not arbitrary or capricious. The APA statute of limitations is six years. Other statutes, such as the Safe Accountable Flexible Efficient Transportation Equity Act – A Legacy for Users (SAFETEA-LU, the 2005 transportation reauthorization) or Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21, the 2012 transportation reauthorization), may allow for a shorter statute of limitations period.

**CEQA Requirement:** CEQA challenges proceed as writs of mandate in which the trial court is asked to determine whether the respondent agency has proceeded in the manner provided by law and whether the agency's determinations are supported by substantial evidence in the administrative record (Cal. Pub. Resources Code, §§ 21168, 21168.5). CEQA provides "unusually short" statutes of limitations on approval of projects. (*Id.* at § 21167.) Different statutes of limitations for challenges apply depending on whether or how a lead agency complied with CEQA, as outlined in CEQA Guidelines section 15112. Generally, challenges to a project's EIR, Negative Declaration or certified regulatory document must be filed within 30 days of the posting of a Notice of Determination. Challenges to a determination that a project is exempt from CEQA must be filed within 35 days of the posting of a Notice of Exemption, if one is filed, or if not, then 180 days from project approval. All other challenges to a project based on CEQA must be filed within 180 days of project approval.

**Opportunities for Coordination:** The NEPA process does not mandate a distinct statute of limitations for challenging the environmental reviews as does CEQA. The APA's six-year review limit is much longer than the CEQA challenge period, which is a maximum of six months after an agency's decision. Consequently, the federal agency's action could be challenged in Federal court under NEPA after the time that a challenge could be brought under CEQA.

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cont.



### III. MOU Framework

#### A. MOU Elements

This section is intended to serve as a resource for agencies preparing a Memorandum of Understanding (MOU) to aid in the creation of an environmental review document that satisfies the requirements of NEPA and CEQA. The writing of an inter-agency MOU should take place through meaningful communication and collaboration between the agencies involved and should occur **before** starting to develop the NEPA/CEQA review planning and documentation. This is necessary in order to accurately characterize the nature and scope of the project, identify the parties and define respective roles and responsibilities, and establish a cooperative and collaborative environment for the entirety of the project and environmental review. The Federal and state lead agencies are encouraged to include non-lead Federal agencies in the NEPA/CEQA MOU – all of the benefits of early, meaningful communication and collaboration between the Federal and state lead agencies apply with equal or greater force to the non-lead Federal action agencies. The MOU Framework should encourage the Federal and state lead agencies to bring other Federal agencies to the table early, to plan their participation in the process, and include them as signatories to the MOU. Each Federal agency has its own NEPA procedures (40 C.F.R. § 1507.3) that describe the agency’s internal review and approval process. Ideally, the MOU should lay out the procedures for the various agencies and describe how those will be integrated to ensure all agencies are moving forward together.

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The potential elements of the MOU are outlined and explained below. This resource is not intended to be comprehensive and not every element discussed below may be necessary for the writing of an MOU. There is “example text” provided to stimulate thinking – not to encourage the use of unnecessary boilerplate. Determining which elements are applicable to a particular MOU requires consideration of the circumstances under which the MOU is being drafted. For example, an MOU can be written for a single project, or, if a Federal and California state/local agency work together frequently, for many projects. An MOU may also be expanded to address cooperation in meeting environmental review and consultation requirements beyond NEPA and CEQA.

The basic elements described below are:

- a. Introduction/ Purpose
- b. Goals/ Benefits
- c. Defining the Aspects of the Project’s Environmental Review/ Roles and Responsibilities
- d. Issue Resolution
- e. Amendments/ Changes to the MOU
- f. Post NEPA/ CEQA Collaboration and Cooperation



Agencies should, whenever practicable, follow these best practices:

- Relying on the same sets of data, field study results, and analysis for both NEPA and CEQA;
- Determining and publishing a schedule for when and how analysis is done;
- Properly scoping activities and focusing on the project under consideration; and
- Having all agencies follow a similar timeline.

### 1. Introduction/Purpose

This portion of the MOU explains the need for the MOU, outlines the big-picture actions and responsibilities for the agencies involved, and summarizes the overall goal. An MOU can be developed and used for a specific project or a suite of projects or program (the “proposed action” in the example text).

EXAMPLE TEXT: *“The purpose of this Memorandum of Understanding is to provide a framework for cooperation between the [Federal agency] and the [CA state/local agency] as joint lead agencies in preparing and completing a joint environmental analysis and document that analyzes the potential environmental consequences of [insert proposed action].*

*This MOU will facilitate a joint environmental review process between [CA state/local agency] and [Federal agency], ultimately aiding the goals and missions of both agencies in the fulfillment of their environmental reviews and simplifying the process for the public. While each agency will assist other agencies to the best extent possible, it will ultimately be the responsibility of [Federal Agency] to comply with the National Environmental Policy Act (NEPA) (42 U.S.C. § 4321 et seq.), and the responsibility of [CA state agency] to comply with the California Environmental Quality Act (CEQA) (Cal. Pub. Resources Code, § 21000 et seq.).*

*NEPA regulations (40 C.F.R. § 1506.2) direct federal agencies to cooperate with state and local agencies to the fullest extent possible to reduce duplication between NEPA and state/local requirements, including joint planning processes, environmental research and studies, public hearings, and Environmental Impact Statements. CEQA Guidelines sections 15222 and 15226 encourage similar cooperation by state and local agencies with Federal agencies when environmental review is required under both NEPA and CEQA. Under these conditions, the Parties shall be joint lead agencies involved with a single planning process which complies with all applicable laws.”*

*The Parties will prepare the joint environmental analysis and document pursuant to NEPA, CEQA, and all applicable laws, executive orders, regulations, direction, and guidelines. Work may include, but is not limited to, environmental and technical information collection/analysis, public engagement and outreach, and drafting a joint environmental analysis document. Should*

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*the decision be made to advance (authorize/approve/fund) the proposed project, this Memorandum of Understanding continues the cooperation during the implementation of any decision to include implementation of any mitigation measures and monitoring developed through the NEPA/CEQA process. This cooperation serves the mutual interest of the Parties and the public.”*

## 2. Parties and Goals/Mutual Benefit and Interests

This section identifies the parties and their decision-making responsibilities. In other words, provide the general – rather than “proposed action” specific – reason the parties are entering into the MOU. The goals/mutual benefits and interests can take the form of setting out guiding principles, such as the goal of providing better information to decision-makers and the public on the environmental consequences of the proposed action, meeting the individual parties’ responsibilities and obligations for funding/permitting, or otherwise approving the proposed action, satisfying regulatory requirements, and increasing collaboration.

*EXAMPLE TEXT: The Federal and State agencies (Parties) are committed to demonstrating cooperation as they develop the environmental review that will provide the public and decision-makers with useful information that will inform their decision on “the proposed action.” The Parties enter this MOU agreeing to:*

- *Create a framework where all Parties have a voice in the environmental review process, and agree to open, frequent and candid communication.*
- *Integrate each Party’s mission and each Party’s statutory and legal responsibilities into this framework because nothing in this MOU can alter the Parties’ independent governing or regulatory obligations.*
- *Develop a coordination schedule for the environmental review with input from each Party, and use best efforts to meet that schedule.*
- *Provide the necessary staffing and resources to ensure a meaningful and substantive planning process, including attending periodic meetings and conference calls.*
- *Communicate with each other within an agreed upon timeframe if a Party is unable to meet the schedule.*
- *Exchange information in a timely manner. The lead agencies will provide the Parties with information and materials in an agreed upon timeframe. In turn, the Parties agree to perform the review of documents and provide substantive feedback within the specified timeframe.*
- *Designate a point-of-contact (POC) for each Party and agree that all written communication to that Party will include the POC. The POC agrees to provide or coordinate timely written communication on behalf of the POC’s Party. A Party wishing to issue written binding communication regarding the Party’s approvals or disapprovals*

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*on critical issues or documents will clearly state that the written communication is intended to represent the Party's position. The POC's routine communications are not binding on that Party.*

- *Affirm that the lead agencies have the sole and ultimate decision-making authority for the selection of the alternatives and Record of Decision, and primary responsibility for NEPA and CEQA compliance as well as compliance with other relevant environmental laws and regulations.*
  - *Facilitate early engagement and coordination in identifying issues, studies and overall development of the environmental review.*
  - *Identify environmental goals for the "proposed action" with the intent of using these goals to improve project level coordination and implementation.*
  - *Work collaboratively to support the development of the environmental review and to identify environmental issues related to the development of a range of alternatives and environmental analysis.*
  - *Efficiently identify, communicate and resolve issues or disagreements.*
  - *Consider the views of all the Parties.*
- 
- All actions governed by applicable California state/Federal laws. An MOU does not grant the signatories any additional rights or powers, nor does it excuse the signatories from fulfilling any other statutory obligation they might have. As such, it is good practice to explicitly state this in the MOU.
  - Each Party is responsible for its own actions/omissions. In line with the previous element, an MOU in no way incurs upon the signatories a shared statutory responsibility to fulfill the obligations of the other signatories. As such, the MOU should indicate the actions for which each signatory is responsible.

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### 3. Defining the Aspects of the Project's Environmental Review/Roles and Responsibilities

The MOU can identify the parties and set out how they will handle the process by describing their respective roles and responsibilities.

- Identification of the Principal Contacts for the joint effort, and provision of their contact information. The MOU should be viewed as an information resource for the involved agencies. One of the most important pieces of information is who to contact at each agency. The text of the MOU should identify the agency contact in a manner that stays current through the entirety of the joint procedure – for instance, the MOU might designate the contact by office rather than by name.

The MOU can be divided by sections that correlate with the stages of the process – “early planning” and “preparing the document” are used below as examples.

Early planning. The MOU may describe roles and responsibilities for the stage preceding actual development of analyses or documents. This early planning can include scoping and other activities that precede drafting the NEPA/CEQA documents such as:

- Identification of affected resources.
- Identification of affected stakeholders, including organizations, members of the public, and other agencies with responsibility for associated resource protection and management
- Outreach and management of involved stakeholders.
- Identification of data needs.
- Determination of methodologies to be applied to data collection/analysis on which resources to include in an analysis and work on individual resources as the process moves forward.
- Using/hiring of independent experts/specialists (e.g., academic institutions, etc.).
- Identification of research needs.
- Identification of existing research and incorporation of existing studies and information.

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- Communicating with the applicant. If the environmental review is applicant-driven (e.g., the issuance of a permit), the MOU can outline which agency will handle contact with the applicant and ask for additional information and clarification when needed.
- Identifying and coordinating with other Federal and California state processes (e.g., Endangered Species Act, National Historic Preservation Act, and Native American consultation). The MOU can assign responsibility for identifying and coordinating the completion of CA state and Federal requirements.
- Timeframes and Milestones. This section describes the timeframe of the project, including major project milestones. These timeframes can be as general or as specific as the signatories find relevant or useful for the purpose of their progress, but their inclusion provides a common roadmap for agencies to plan their work schedule around.
  - Examples of Milestones include intermediate steps as well as conclusions: Scoping, informal or formal consultation under the Endangered Species Act, consultation under the National Historic Preservation Act Section 106 process, internal review of documents, publication of draft documents, public comment periods, etc.
- Data and Methodology. The MOU can address the determinations that will be made regarding what data is needed and when the amount and quality of data is considered adequate. The MOU can describe which agency will determine which standards apply to each stage of the planning and environmental review process.
  - The agencies should have specialists work together to develop methodologies. This may involve adopting the more stringent of two requirements or merely disclosing the different methodologies and results to the public.
  - **EXAMPLE TEXT FOR USING MOST STRINGENT REQUIREMENT:** *“The Draft and Final EIR/EIS and related analyses will apply whichever NEPA/CEQA requirement or other substantive legal/regulatory requirement is more stringent in its analysis.”*
- Consultation with other parties. This element identifies those parties that are involved in the environmental review but are not a party to the MOU, and identifies which Party to the MOU will coordinate efforts with those entities.
- Using a Contractor:
  - Selection of a contractor (if any) is a joint process. If desired, the parties in the MOU can agree to how the lead agency will select the contractor. Both NEPA and CEQA leaders should have a role in contractor selection to ensure the contractor can meet the NEPA and CEQA requirements. Check with your agency counsel to ensure that any considerations under the California and Federal Acquisition Regulations are addressed as well as State

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laws, including but not necessarily limited to, laws under the California Public Contracts Code.

- Working with the contractor. The MOU should specify how each agency can work with the contractor. For example, if one agency hires the contractor, can another agency access that contractor directly, or must they work through the contracting agency?

Preparing the Document. The MOU should specify which agency will be responsible for preparing particular analyses and the writing of the document. For example, the MOU can identify the sections of the document each agency will provide (e.g., the Federal agency would provide information and analysis specific to NEPA requirements, while the California state agency would provide information and analysis specific to CEQA requirements).

- The MOU can identify the agencies' responsibilities for the various determinations made during the development of the joint analysis and documentation.
  - Scope and content of the document and underlying analyses.
  - Defining what constitutes "satisfactory" work.
  - Describing how to include other agencies that may become involved in review.
  - Determining data adequacy: significant figures, common data frameworks, file formats, collection methodology, software, etc.
- Develop mailing lists for outreach and document distribution. This element identifies the agency that will manage the address list for the distribution of materials, information, and the environmental review document to stakeholders and members of the general public for review.
- Gathering and maintaining public comments and the administrative record. Identify the agency responsible for gathering, docketing, and maintaining the public comments as well as the other elements of the administrative record.
- Review and respond to public comments. Designating a single agency to coordinate responses to public comments is helpful, but the California and Federal joint lead agencies should be actively involved in the review of comments in order to ensure all relevant issues are addressed and receive responses as required by NEPA and CEQA.
- Organizing/running joint public meetings. Identifying which agency will be responsible for scheduling and running public meetings will facilitate collaboration in planning and the public comment processes as well as in any subsequent studies and analyses.
- Sharing and disclosure of information. The MOU can include a statement identifying the type of communications and data that is subject to disclosure under laws including the Freedom of Information Act (FOIA) and the California Public Records Act (PRA). The

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MOU can address whether an applicant can have access to information and whether that makes the information subject to broader disclosure and release. Agency staff should seek legal assistance to assist in understanding the FOIA and the PRA requirements relevant to the various communications, data, analyses, and draft documents developed, gathered, and used during the joint NEPA-CEQA process.

- Final approval and submission of documents to appropriate entity. Joint documents are generally approved by authorities at different levels of government. This element identifies those authorities as well as defines which agency will hold ultimate approval authority to ensure that the NEPA/CEQA review meets relevant requirements.
- Media releases, hand-outs, talking points, presentations. The MOU can address how agencies will coordinate key messages and set out the procedures for overarching communications and consultation. The MOU can assign responsibilities for producing and approving media releases and hand-outs for public distribution. Depending on the likely responses and issues surrounding a project, as well as resource and staffing constraints, an MOU may designate a particular agency to coordinate content and distribute the materials to specific stakeholders and address concerns and responses from stakeholders and the public.
- Process for reviewing contractor work, approving publication. The MOU could address the procedure for review of documents provided by the contractor and assign responsibility for final approval and release or publication.

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#### 4. Issue Resolution

- Identify potential issues. This element applies to any other agency needing to contact or discuss the document with the contractor. It should also be addressed by the agency in the agreement with the contractor.
- Raising Potential Issues. Some joint processes may identify issues or potential areas of concern early in the collaboration. Including those issues in the MOU allows the involved agencies to focus on resolving and ameliorating them as part of the planning and environmental review.
- Issue Resolution Process. Conflicts will arise during the joint document process on any number of issues, including proper procedure, methodologies for studies/surveys/determinations, amount of information to be developed/included in the documents, and strategies for addressing questions raised in the public comment process. Agencies should establish a method for productively resolving these conflicts in the MOU. Involvement of agency counsel early is important, particularly where any legal requirements are at issue. If the involved parties feel the joint process could become contentious, include a process to identify and engage a facilitator or mediator.

EXAMPLE TEXT: *“In case of a dispute arising from the implementation of this Memorandum of Understanding, the Parties shall exhaust alternative dispute resolution methods such as negotiation and mediation before elevating the issue to their leadership. Parties shall act in good faith to resolve the dispute.”*

EXAMPLE TEXT: *“If disagreements on the findings, conclusions, impacts, or resource condition in the joint environmental analysis cannot be resolved, each Party shall provide an explanation of assumptions used to reach these conclusions including reasons for the differing conclusions for insertion in separate NEPA/CEQA sections of the document.”*

- Format of environmental document. Agency regulations may mandate a set format for environmental reviews. An MOU can address any differences between agency NEPA and CEQA document formats by describing the format that will be used.
  - The MOU can specify whether any agency has the ability to halt publication if the document does not meet their needs, and set out a process for making sure that all comments are adequately addressed.

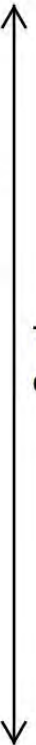
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**5. Amendments/Changes to the MOU**

- Mutual consent needed to modify the MOU. The MOU should outline the procedure for modifications made to the MOU, especially stating that mutual consent between all parties is necessary to modify the structure or provisions in the MOU.
- Notice for amendment/termination of the MOU. The MOU should state how much time a party must give in its notice to amend or terminate the MOU.

**6. Post NEPA/CEQA collaboration and Cooperation:**

- Implementing/monitoring/enforcing mitigation. Depending on the project and its requirements, agencies involved in the MOU might have statutory authority to enforce mitigation elements in the project. This element of the MOU outlines the mitigation measures that are relied upon in concluding the NEPA/CEQA review and identify which agency(s) will have a role in implementation and/or monitoring.



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Since 2007, the California Department of Transportation (Caltrans) and the Federal Highway Administration (FHWA) have participated in a unique environmental program referred to as “NEPA Assignment,” which is authorized under the transportation reauthorization laws. To implement the program, Caltrans and FHWA entered into a Memorandum of Understanding pursuant to 23 U.S.C. 327. Under this MOU, FHWA assigned, and Caltrans accepted, responsibility for NEPA. First established as a Pilot Program by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A legacy for Users (SAFETEA-LU), this was made permanent, renewable every five years, with the enactment of the Moving Ahead for Progress in the 21<sup>st</sup> Century Act (Map-21) in 2012.

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**IV. Joint Analyses Involving the California Energy Commission**

Over the past several years, pursuit of renewable energy goals has increased the relevance of coordinating joint NEPA and CEQA review processes. The Federal government has targets for renewable energy production on public lands and has offered financial incentives for projects, while California has an aggressive Renewable Portfolio Standard. Large scale renewable energy projects proposed for Federal land or pursuing Federal funding have also required state licensing or local permitting, requiring both NEPA and CEQA compliance.

The California Energy Commission licenses thermal power plants 50 megawatts and larger, as well as the plant’s related facilities such as transmission lines, fuel supply lines, water pipelines, etc. The Energy Commission’s licensing process is a certified regulatory program under CEQA, meaning that the documents prepared in that process will serve as the functional equivalent of an Environmental Impact Report (CEQA Guidelines, § 15251, subd. (j)). Regulations governing the power plant siting certification process are contained in Division 2 of Title 20 of the California Code of Regulations and are available online at <http://www.energy.ca.gov/reports/title20/index.html>.

Though it is a functionally equivalent process, the Energy Commission’s licensing process is unique in several ways. For example, the licensing proceedings are adjudicatory, and staff is a party separate from the decision-maker. Further, the proceedings include evidentiary hearings with sworn testimony. Such differences can be disorienting, and require additional coordination between state and Federal partners. The process of the California Energy Commission is summarized and roughly equated to the NEPA process in the table below. Note, however, not all Federal agencies view the steps identified in the following table as equivalents. These differences highlight the benefit to Federal and California agencies of working through such procedural issues beforehand in an MOU.

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Table 4: Summary and Comparison of NEPA and the CEC's Power Plant Siting Processes

National Environmental Policy Act	California Energy Commission Process
<p>Initial Review for Applicability of a Categorical Exclusion</p> <ul style="list-style-type: none"> <li>Excluded if there are no extraordinary circumstances</li> </ul>	<p>Initial Review for Plant Size</p> <ul style="list-style-type: none"> <li>Projects under 50 MW are not subject to CEC jurisdiction</li> <li>Projects under 100 MW may be licensed or may be subject to the Small Power Plant Exemption (note: this still requires an environmental document)</li> </ul>
<p>Environmental Assessment</p> <ul style="list-style-type: none"> <li>If no significant impacts, adopt a Finding of No Significant Impact</li> <li>If significant impacts can be mitigated, prepare a mitigated FONSI</li> <li>If impacts may be significant, prepare an Environmental Impact Statement</li> </ul>	
Environmental Impact Statement Process	Application for Certification
Notice of Intent	Application for Certification Accepted
Scoping	Informational Hearing(s); Site Visit
Draft EIS	Preliminary Staff Assessment Filed
Filing with EPA, which publishes a Notice of Availability in the Federal Register	
Public Agency Review and Comment	Preliminary Staff Assessment Public Workshop
Final EIS	Final Staff Assessment
	Evidentiary Hearings
Final EIS and Filing with EPA, which publishes a Notice of Availability in the Federal Register	Presiding Member's Proposed Decision
30 Day Review Period (Agency may convert this into a public review and comment period).	Public Review and Comment Period (30 Days)
Record of Decision	Decision

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cont.

Beyond the procedural differences noted above, substantive differences between NEPA and CEQA, as well as differences in agency mission, may require special attention in the project's pre-planning process. As noted in this handbook, while the NEPA requirement for a "purpose and need" statement and CEQA's requirement for identification of "project objectives" are facially similar, in practice they may differ. For example, under CEQA, project objectives for a renewable energy project might include the production of renewable energy, fulfillment of state policy goals, and local economic development. Under NEPA, on the other hand, the Bureau of Land Management's primary objective might be to fulfill its statutory obligation to approve or deny a right-of-way application for a solar energy project on public land, rather than the broader goals or underlying purpose of the project itself. These differences become important in selecting the range of alternatives. As suggested in this handbook, Lead Agencies should cooperatively review proposed project purpose and need and project objectives statements. If necessary, a joint document may describe the Federal agency's purpose and need and the CEQA project objectives in separate sections, together with an explanation of why the agencies' goals differ (e.g., that their statutory authorities or obligations require a different focus).

Examples of alternatives considered in recent NEPA and CEQA reviews for California energy projects include:

- reduced acreage, reduced megawatt and modified footprint alternatives, as well as alternative sites that focus on disturbed sites, degraded sites, contaminated sites, and fallow or impaired agricultural lands;
- alternative generating technologies and providing a description of the benefits associated with those technologies; and
- relocating portions of the project in other areas, including private land, to reduce environmental impacts.

Substantively, Energy Commission projects may require analysis beyond what NEPA would otherwise require. For example, the California Energy Commission has specific regulations requiring it to analyze several issues related to energy, including transmission, generating efficiency, and reliability (See, e.g., Cal. Code Regulations, tit. 20, § 1743).

Though challenging, these differences can be addressed through close coordination. As suggested in this handbook, pre-project planning and development of a Memorandum of Understanding between the state and Federal agency partners can help facilitate the joint environmental review process.

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## Draft EIR for the Ballona Wetlands Ecological Reserve

***The public comment period for this DEIR closed February 5, 2018.***

The California Department of Fish and Wildlife (CDFW) will review all comments received during the public comment period and provide written responses in a Final EIR. The Final EIR will be made available to the public and will provide a basis for decision-making by permitting authorities.

It is difficult to accurately estimate the schedule for completion of the Final EIR. CDFW received more than 7,000 public comments. Until we have developed responses to a majority of comments it is difficult to estimate when we will be done. A very rough guess is we would be finished responding to the comments and preparing a final EIR by the end of 2018. We are working to finalize a schedule and will post it as soon as we can.

CDFW, in partnership with the State Coastal Conservancy and The Bay Foundation, has spent years working with the public and envisioning a plan for the revitalization of the Ballona Wetlands Ecological Reserve (BWER). The Ballona Wetlands were once an approximate 2,000-acre expanse of marshes, mud flats, salt pans and sand dunes that stretched from Playa del Rey to Venice and inland to the Baldwin Hills. Today, BWER is less than 600 acres of open space, all that remains of the former wetlands, now owned by the people of California and managed by CDFW. See the [Ballona Wetlands Restoration Project \(http://ballonarestoration.org/\)](http://ballonarestoration.org/) for more information.

CDFW, as the lead agency under the California Environmental Quality Act, is coordinating the preparation of an Environmental Impact Report (EIR) for the proposed Ballona Wetlands Restoration Project.

[Notice of Availability \(PDF\) \(https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149757&inline\)](https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149757&inline)

- [Public Notice - Extension of Comment Period \(PDF\) \(https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=150793&inline\)](https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=150793&inline)
- [Draft EIR \(PDF\) \(https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149710&inline\)](https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149710&inline)
  - [Appendix Table of Contents \(PDF\) \(https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149721&inline\)](https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149721&inline)
  - [Appendix A, part 1 \(PDF\) \(https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149722&inline\)](https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149722&inline)
  - [Appendix A, part 2 \(PDF\) \(https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149723&inline\)](https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149723&inline)
  - [Appendix B, part 1 \(PDF\) \(https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149752&inline\)](https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149752&inline)
  - [Appendix B, part 2 \(PDF\) \(https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149753&inline\)](https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149753&inline)
  - [Appendix B, part 3 \(PDF\) \(https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149754&inline\)](https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149754&inline)
  - [Appendix B, part 4 \(PDF\) \(https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149755&inline\)](https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149755&inline)
  - [Appendix C \(PDF\) \(https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149714&inline\)](https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149714&inline)
  - [Appendix D \(PDF\) \(https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149715&inline\)](https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149715&inline)
  - [Appendix E, part 1 \(PDF\) \(https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149724&inline\)](https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149724&inline)
  - [Appendix E, part 2 \(PDF\) \(https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149725&inline\)](https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149725&inline)
  - [Appendix F \(PDF\) \(https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149716&inline\)](https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149716&inline)
  - [Appendix G \(PDF\) \(https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149717&inline\)](https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149717&inline)
  - [Appendix H \(PDF\) \(https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149718&inline\)](https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149718&inline)

T2-17

- [Appendix I \(PDF\)](https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149719&inline) (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149719&inline>)
- [Appendix J \(PDF\)](https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149720&inline) (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149720&inline>)
- [Reference Materials](ftp://ftp.wildlife.ca.gov/Ballona_Restoration_EIR_Reference_Material) ([ftp://ftp.wildlife.ca.gov/Ballona\\_Restoration\\_EIR\\_Reference\\_Material](ftp://ftp.wildlife.ca.gov/Ballona_Restoration_EIR_Reference_Material))
- [Video of the public meeting \(YouTube\)](https://youtu.be/dj6lbnKcPRk) (<https://youtu.be/dj6lbnKcPRk>)

The Draft EIR, appendices, and all documents referenced in the Draft EIR are available for public review during normal working hours at the following locations:

- California State Coastal Conservancy, 1515 Clay St., 10th Floor, Oakland, CA 94612
- Los Angeles Public Library, Playa Vista Branch, 6400 Playa Vista Drive, Los Angeles, CA 90094
- County of Los Angeles Public Library, Lloyd Taber-Marina del Rey, 4533 Admiralty Way Marina del Rey, CA 90292
- Los Angeles Public Library, Westchester-Loyola Village Branch, 7114 W Manchester Ave, Los Angeles, CA 90045

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**South Coast Region (Region 5)** (<https://www.wildlife.ca.gov/Regions/5>)

Regional Manager: Ed Pert

Main Office: 3883 Ruffin Road, San Diego, CA 92123

Email the South Coast Region (<mailto:AskR5@wildlife.ca.gov>) | (858) 467-4201 | FAX: (858) 467-4299

↑  
T2-17  
cont.





## Letter T2: Johntommy Rosas

T2-1 The word “proponent” commonly is used in the environmental review process to identify a permit applicant or the entity that would undertake implementing activities if a proposed project were approved. As applicants for permits or other authorizations required to implement the proposed activities, CDFW and the Los Angeles County Department of Public Works-Flood Control District (LACFCD) applied for approvals to modify specified features of the Federally authorized Los Angeles County Drainage Area (LACDA) project and otherwise restore the Ballona Wetlands Ecological Reserve within the Project site as described in Alternative 1: Full Tidal Restoration/Proposed Action. See Final EIR Section 2.2.2, *General Response 2, Proposed Project*, for more information about the Project. Also, see Response AL7-2 regarding the revision in terminology for CDFW and LACFCD from “Project Proponents” to “Permit Applicants.” See Final EIR Section 3.2.2.

CDFW’s role as CEQA Lead Agency for the Project, however, is different from its role as Project applicant. In its Lead Agency capacity, CDFW has not yet decided which among the alternatives analyzed in detail in the Draft EIS/EIR is its “choice.” CDFW will make this decision after evaluating environmental and other factors as part of its decision-making process. Draft EIS/EIR Section 4.4 preliminarily identified Alternative 2 as the Environmentally Superior Alternative and made clear that CDFW would finalize its determination of the Environmentally Superior Alternative only after it has considered all substantive comments received on the Draft EIS/EIR. Based on additional information received and further consideration of competing factors, CDFW now believes the Project (Alternative 1) to be the Environmentally Superior Alternative. See General Response 3, *Alternatives* (Final EIR Section 2.2.3), for more information.

The commenter’s opinion as to the adequacy of the notice extending the comment period on the Draft EIS/EIR is acknowledged; however, a more detailed response is not possible without some indication of the requirement believed not to have been met. CEQA does not require a lead agency to identify an alternative of choice in a notice of the availability for review of a draft EIR (14 CCR §15087(c)).

T2-2 See Response T2-1, intending to clarify the meaning of “proponent” in this context.

T2-3 See Response T2-1 regarding the lack of specificity in the comment as to compliance with what requirement(s).

T2-4 CDFW disagrees with the assertion that the only positive effects of the Project would benefit the Playa Vista development. The Draft EIS/EIR differentiates between “effects” and “impacts” where use of the word “effect” signifies a beneficial change and use of the word “impact” signifies an adverse change. See, e.g., Draft EIS/EIR Section 3.1.1, *Impact Terminology*. Beneficial effects of the Project would include, for example, net gains in habitat for salt marsh-associated invertebrates, Belding’s savannah sparrow, least Bell’s vireo, shorebirds, marsh birds, Southern California salt



marsh shrew and South Coast marsh voles, riparian and sensitive natural communities, and wetlands/waters of the State and U.S. The proposed restoration also would increase the ability of the Project Site to function as a carbon sink and improve recreational facilities for some public uses including bike paths and pedestrian trails (see Draft EIS/EIR Table ES-3).

- T2-5      Receipt of the September 27, 2017, request for extension of the comment period is acknowledged. See General Response 8, *Public Participation* (Final EIR Section 2.2.8.1), regarding CDFW's decisions in response to requests for extension of the comment period.
- T2-6      See General Response 8, *Public Participation* (Final EIR Section 2.2.8.1), regarding CDFW's decision not to further extend the comment period beyond 133 days.
- T2-7      See General Response 8, *Public Participation* (Final EIR Section 2.2.8.1), regarding CDFW's decisions in response to requests for extension of the comment period.
- T2-8      Receipt of these excerpts from the federal regulations is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. As explained in Final EIR Section 2.1.1, *Input Received*, a mere recitation of existing law does not address either the adequacy or accuracy of the Draft EIS/EIR or the merits of the alternatives discussed, and does not identify an environmental issue.
- T2-9      See General Response 8, *Public Participation* (Final EIR Section 2.2.8.1), regarding CDFW's decisions in response to requests for extension of the comment period.
- T2-10     The Notice of Availability (NOA) describes how the Draft EIS/EIR and the reference material relied upon in its drafting may be accessed electronically, i.e., during normal working hours at the California State Coastal Conservancy and specified public libraries in Playa Vista, Marina del Rey, and Westchester-Loyola Village. The NOA does not purport to include the reference materials. Copies of the reference materials also were uploaded during the comment period to the Project website.
- T2-11     See General Response 8, *Public Participation* (Final EIR Section 2.2.8.1), regarding CDFW's decisions in response to requests for extension of the comment period. See also Response T2-16 regarding the 2014 handbook cited in the comment.
- T2-12     See General Response 4, *Drains* (Final EIR Section 2.2.4), which addresses multiple comments received about the drains subject to the Coastal Commission's decision.
- T2-13     See General Response 8, *Public Participation* (Final EIR Section 2.2.8.1), regarding the Lead Agencies' decisions in response to requests for extension of the comment period.



- T2-14 CDFW's initial (February 5, 2018) response to the request for clarification about the availability of reference materials is noted in the comment. As stated, the reference materials made available on the Department's website in January were available for public review immediately upon issuance of the Draft EIS/EIR as noted in the Draft EIS/EIR and in the NOA. Electronic copies of these materials were included (on CD) with the library copies of the Draft EIS/EIR. They also were available upon request. Also as noted in the comment, these materials thereafter also were uploaded to the Project website in response to requests and for the additional convenience of members of the public.
- T2-15 Receipt of this copy of CDFW's NOA is acknowledged. See Final EIR Section 2.1.1, *Input Received*.
- T2-16 See Response T2-11. Receipt of the February 2014 handbook entitled *NEPA and CEQA: Integrating Federal and State Environmental Reviews* is acknowledged. Given that publication of the handbook predates issuance of the Draft EIS/EIR by more than three years, citations by the commenter to the handbook, without accompanying detail or Project-specific context, cannot be considered a substantive comment on the Draft EIS/EIR. See Final EIR Section 2.1.1, *Input Received*, for an explanation of why no more detailed response is warranted.
- T2-17 Receipt of this copy of CDFW's notice of extension of the comment period for the Draft EIS/EIR is acknowledged. No more detailed response is provided for the reasons explained in Final EIR Section 2.1.1, *Input Received*.



**P.O. Box 54132**  
**Irvine, CA 92619-4132**

**California Cultural Resource Preservation Alliance, Inc.**  
An alliance of American Indian and scientific communities working for  
the preservation of archaeological sites and other cultural resources.

October 12, 2017

Richard Brody, CDFW  
550 Kearney Street, Suite 800  
San Francisco, CA 94108

RE: Draft Environmental Impact Statement/Environmental Impact Report for Ballona Wetlands  
Restoration Project (DEIS/DEIR)

Dear Mr. Brody:

We are writing to express our strong opposition to all the alternatives presented in this DEIS/DEIR except for Alternative 4, which does not include the massive bulldozing that would destroy natural habitat and significant archaeological resources. Impacts to four historical resources including one prehistoric archaeological district and one prehistoric archaeological site with known burials are not acceptable. It was bad enough that numerous archaeological sites including a historic period Native American cemetery were destroyed to make way for the Playa Vista development. This makes the remaining archaeological sites within the Ballona area even more significant and the need to preserve them in situ a cultural and environmental justice imperative.

T3-1  
T3-2  
T3-3

Sincerely,

Patricia Martz, Ph.D.  
President





### **Letter T3: California Cultural Resource Preservation Alliance Inc.**

- T3-1 The stated preference for Alternative 4, No Federal Action/No Project, and opposition to the Project (Alternative 1) and each of the other restoration alternatives is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. No more detailed response is provided for the reasons explained in Final EIR Section 2.1.1, *Input Received*.
- T3-2 The stated views on the acceptability of potential impacts of the Project to historical and prehistoric archaeological resources is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.
- T3-3 As summarized in Draft EIS/EIR Section 3.5.5, the Project Site is considered sensitive for Native American resources, inclusive of both known and unknown resources. Archaeological sites, including Native American burial sites, were considered in the analysis of potential impacts of the Project. See, for example, Draft EIS/EIR Section 3.5.5, which identifies information received and reviewed as part of CDFW's consideration of this Project. As described in Section 3.5.5, CDFW has initiated consultation with tribal interest representatives, and as part of CEQA and CDFW's Tribal Communication and Consultation Policy, such consultations are ongoing. Additionally, CDFW understands that the Corps' consultation initiated under Section 106 of the NHPA also is ongoing. Because sub-surface resources are likely to be present on-site, a coordination agreement will be prepared with tribal interest representatives, to handle any post-review discoveries, such as historic, archaeological, cultural, and/or burial resources.

As described in Draft EIS/EIR Section 3.14.2.2, *Environmental Justice*, "Native Americans living in the region, whether or not they are part of an identified minority or low-income community, represent a community that may be at risk for environmental justice impacts related to physical impacts on cultural resources." The Draft EIS/EIR evaluates potential environmental justice impacts to Native American groups in Section 3.14.6.1 in the context of Impact 1-EJ-1.

### **2.3.5 Responses to Form Comments**

The following pages contain the comment form letters received and CDFW's associated responses.

Richard Brody, CDFW  
c/o ESA (jas)  
550 Kearney Street, Suite 800  
San Francisco, California, 94108



# SAVE OUR LEAGUE



We understand the importance and need to restore the Ballona Wetlands. The different alternative options of The Ballona Restoration Project includes the decision of how the excavated soil from Area A/B would effect the South Area C location where our League is located. We ask that you please **do not disrupt** the non-vegetated area of South Area C where our baseball diamonds are located.

F1-1

Our League has been a fixture of our community since 1956. Youth sports including baseball and softball are important to the character and development of our children. Moreover, our League services the low-income residents, including the Mar Vista Housing Projects and the immediate surrounding area. Any disruption to the League's baseball season and fields could create a hardship and danger for many of our at-risk kids.

F1-2

Please consider our League in your decision on the alternative option approval. **Our kids matter too.**

Name: Angel V. Age if player: 11 Date: 2017

Why is the Culver Marina Little League field important to me?

It is important because more kids can play  
Culvermarina has a lot of memories  
of good players it makes people believe in the  
Self that's why we should keep Culver Marina

F1-3

Richard Brody, CDFW  
c/o ESA (jas)  
550 Kearney Street, Suite 800  
San Francisco, California, 94108



# SAVE OUR LEAGUE



We understand the importance and need to restore the Ballona Wetlands. The different alternative options of The Ballona Restoration Project includes the decision of how the excavated soil from Area A/B would effect the South Area C location where our League is located. We ask that you please do not disrupt the non-vegetated area of South Area C where our baseball diamonds are located.

Our League has been a fixture of our community since 1956. Youth sports including baseball and softball are important to the character and development of our children. Moreover, our League services the low-income residents, including the Mar Vista Housing Projects and the immediate surrounding area. Any disruption to the League's baseball season and fields could create a hardship and danger for many of our at-risk kids.

Please consider our League in your decision on the alternative option approval. Our kids matter too.

Name: Carlos Salazar Age if player: 10 Date: 9/30/17

Why is the Culver Marina Little League field important to me?

This league is important to me because my kids had  
play there since they were 7 years old and this is the  
only league near are home, and im planing to take my to  
other girls to play next year there

F1-4



Richard Brody, CDFW  
c/o ESA (jas)  
550 Kearney Street, Suite 800  
San Francisco, California, 94108



# SAVE OUR LEAGUE



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Our League has been a fixture of our community since 1956. Youth sports including baseball and softball are important to the character and development of our children. Moreover, our League services the low-income residents, including the Mar Vista Housing Projects and the immediate surrounding area. Any disruption to the League's baseball season and fields could create a hardship and danger for many of our at-risk kids.

Please consider our League in your decision on the alternative option approval. **Our kids matter too.**

Name: Carlos Salazar Age if player: 15 Date: 9/30/17

Why is the Culver Marina Little League field important to me?

It is important because that is where I started playing  
baseball. Also I have so many good memories their and  
everyone their is like family.

F1-5



Richard Brody, CDFW  
c/o ESA (jas)  
550 Kearney Street, Suite 800  
San Francisco, California, 94108



# SAVE OUR LEAGUE



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Our League has been a fixture of our community since 1956. Youth sports including baseball and softball are important to the character and development of our children. Moreover, our League services the low-income residents, including the Mar Vista Housing Projects and the immediate surrounding area. Any disruption to the League's baseball season and fields could create a hardship and danger for many of our at-risk kids.

Please consider our League in your decision on the alternative option approval. **Our kids matter too.**

Name: Celia Amador Age if player: \_\_\_\_\_ Date: 9/30/17

Why is the Culver Marina Little League field important to me?

Culver marina is very important to me and my Family. My kids have played for Culver marina for over 6 years. We have grown with the field and they enjoy every day that they get to play on that field. It would be total devastation if they were to lose that field. We are a family there and we will fight! We love Culver Marina little league!!!

F1-6

Richard Brody, CDFW  
c/o ESA (jas)  
550 Kearney Street, Suite 800  
San Francisco, California, 94108



# SAVE OUR LEAGUE



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Our League has been a fixture of our community since 1956. Youth sports including baseball and softball are important to the character and development of our children. Moreover, our League services the low-income residents, including the Mar Vista Housing Projects and the immediate surrounding area. Any disruption to the League's baseball season and fields could create a hardship and danger for many of our at-risk kids.

Please consider our League in your decision on the alternative option approval. **Our kids matter too.**

Name: Daisy Velusquez Age if player: \_\_\_\_\_ Date: 9/30/17

Why is the Culver Marina Little League field important to me?

The commitment coaches have to teams are amazing and every player enjoys being on the field with their given team. The league has potential. Honda has donated to the league and believes every kid has a chance in baseball. Please do not make any modifications to the league! Thank you - courage  
Student

F1-7



Richard Brody, CDFW  
c/o ESA (jas)  
550 Kearney Street, Suite 800  
San Francisco, California, 94108



# SAVE OUR LEAGUE



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Our League has been a fixture of our community since 1956. Youth sports including baseball and softball are important to the character and development of our children. Moreover, our League services the low-income residents, including the Mar Vista Housing Projects and the immediate surrounding area. Any disruption to the League's baseball season and fields could create a hardship and danger for many of our at-risk kids.

Please consider our League in your decision on the alternative option approval. Our kids matter too.

Name: Damian Salazar Maria Gutierrez Age if player: 10 Date: 9/30/12

Why is the Culver Marina Little League field important to me?

Culver marina little league is important to my family  
and me because they have been playing there since they  
were small and I'm already planning to take my four year  
old girls for t-ball next year is this is the only  
league close to our neighbourhood.

F1-8

Richard Brody, CDFW  
c/o ESA (jas)  
550 Kearney Street, Suite 800  
San Francisco, California, 94108



# SAVE OUR LEAGUE



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Our League has been a fixture of our community since 1956. Youth sports including baseball and softball are important to the character and development of our children. Moreover, our League services the low-income residents, including the Mar Vista Housing Projects and the immediate surrounding area. Any disruption to the League's baseball season and fields could create a hardship and danger for many of our at-risk kids.

Please consider our League in your decision on the alternative option approval. **Our kids matter too.**

Name: Jose A. Serna Age if player: \_\_\_\_\_ Date: 9/30/17

Why is the Culver Marina Little League field important to me?

It has provided a safe place for kids to play  
& practice in a safe location-

F1-9



Richard Brody, CDFW  
c/o ESA (jas)  
550 Kearney Street, Suite 800  
San Francisco, California, 94108



# SAVE OUR LEAGUE



We understand the importance and need to restore the Ballona Wetlands. The different alternative options of The Ballona Restoration Project includes the decision of how the excavated soil from Area A/B would effect the South Area C location where our League is located. We ask that you please do not disrupt the non-vegetated area of South Area C where our baseball diamonds are located.

Our League has been a fixture of our community since 1956. Youth sports including baseball and softball are important to the character and development of our children. Moreover, our League services the low-income residents, including the Mar Vista Housing Projects and the immediate surrounding area. Any disruption to the League's baseball season and fields could create a hardship and danger for many of our at-risk kids.

Please consider our League in your decision on the alternative option approval. Our kids matter too.

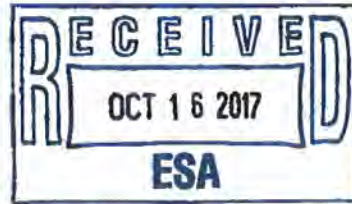
Name: Joseph Amador Age if player: 12 Date: 09-30-17

Why is the Culver Marina Little League field important to me?

Well Starting off it's a home to not only me but to everyone it's a place where we could make our memories to keep forever and ever and ever it's my place to express my feelings where are feelings matter into our sport which is (baseball) there are many kids wanting to play this sport it's also something a program to keep us kids off the streets and out of trouble it's special.

F1-10

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c/o ESA (jas)  
550 Kearney Street, Suite 800  
San Francisco, California, 94108



# SAVE OUR LEAGUE



We understand the importance and need to restore the Ballona Wetlands. The different alternative options of The Ballona Restoration Project includes the decision of how the excavated soil from Area A/B would effect the South Area C location where our League is located. We ask that you please do not disrupt the non-vegetated area of South Area C where our baseball diamonds are located.

Our League has been a fixture of our community since 1956. Youth sports including baseball and softball are important to the character and development of our children. Moreover, our League services the low-income residents, including the Mar Vista Housing Projects and the immediate surrounding area. Any disruption to the League's baseball season and fields could create a hardship and danger for many of our at-risk kids.

Please consider our League in your decision on the alternative option approval. Our kids matter too.

Name: JUAN MEDINA Age if player: \_\_\_\_\_ Date: 9/30/17

Why is the Culver Marina Little League field important to me?

Culver Marina Little League is important to me and the rest of my family. Is a part of our lives, as a former player and now coach and Dad. Culver Marina kept me out trouble as I grew in a bad neighborhood. I looked up to begin out in the field. I see my son and the rest of my kids the happiest when their in the field.

F1-11



Richard Brody, CDFW  
c/o ESA (jas)  
550 Kearney Street, Suite 800  
San Francisco, California, 94108



# SAVE OUR LEAGUE



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Our League has been a fixture of our community since 1956. Youth sports including baseball and softball are important to the character and development of our children. Moreover, our League services the low-income residents, including the Mar Vista Housing Projects and the immediate surrounding area. Any disruption to the League's baseball season and fields could create a hardship and danger for many of our at-risk kids.

Please consider our League in your decision on the alternative option approval. **Our kids matter too.**

Name: Leo Santos Age if player: 13 Date: 9-30-17

Why is the Culver Marina Little League field important to me?

Culver Marina is the ~~league~~ League that I have played in since tee-ball. I have ~~played~~ played there, umpired, and caught there. I love that league. I help my dad cut the lawn of the field ~~and~~ at night we play ~~together~~ together. I love to see the happiness that it brings to the people. Also because I am too old to play in minors I cannot ~~play~~ play since I am ~~too~~ too old. Since we only have the League during the spring we have to play in another league. The ~~kids~~ kids I reached where in tee-ball. They all loved to play and were ~~an~~ good kids. We only have teams till the minors -

F1-12

because our Junior / Senior fold was taken away. Most of  
the people there are like my ~~second~~ second family. I love culver  
university.

↑  
F1-12  
cont.



Richard Brody, CDFW  
c/o ESA (jas)  
550 Kearney Street, Suite 800  
San Francisco, California, 94108



# SAVE OUR LEAGUE



We understand the importance and need to restore the Ballona Wetlands. The different alternative options of The Ballona Restoration Project includes the decision of how the excavated soil from Area A/B would effect the South Area C location where our League is located. We ask that you please **do not disrupt** the non-vegetated area of South Area C where our baseball diamonds are located.

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Please consider our League in your decision on the alternative option approval. **Our kids matter too.**

Name: Sofia Velasquez Age if player: 15 Date: 9/30/17

Why is the Culver Marina Little League field important to me?

It is important to me because the teams at Culver Marina Little League unite as one and care for all kids. With experience or not, this is a safe place for children and they have fun. Taking Marina Little League down would be so unfortunate, that would be taking away something fundamental for children. Using the space encourages interaction, discipline, strength, and health. Taking that away can affect them, think wisely, Thank

F1-13



## Letter F1: Culver Marina Little League

- F1-1 The request not to disrupt the non-vegetated area in South Area C where the ballfields are located is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. As part of the analysis of potential impacts to recreation resources, Draft EIS/EIR Section 3.11.6 discloses that use of the ballfields would be likely to continue under Alternative 1 and Alternative 3 and would be unaffected by Alternative 4, but that the fields would be closed and may (or may not) be reconstructed under Alternative 2.
- F1-2 CDFW acknowledges the long history of little league within the Ballona Reserve, and that the little league's presence predates CDFW's ownership of the land. CDFW also agrees that baseball and softball, along with athletics in general, provide recreational value. Recognizing these facts, CDFW has accommodated the little league while trying to manage the competing interest of habitat restoration. The comment is now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.
- F1-3 This expression of the importance of baseball is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process.
- F1-4 See Response F1-2 acknowledging the history and role of little league within the community.
- F1-5 This expression of the importance of baseball is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process.
- F1-6 See Response F1-2 acknowledging the history and special role of the league within the community.
- F1-7 Support for the league by coaches, players, and others and the benefits of playing baseball are acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process.
- F1-8 Regarding the history and special role of the league within the community, see Response F1-2. As noted in Response F1-1, only Alternative 2 would result in closure of the ballfields. As part of the analysis of potential impacts to recreation resources, Draft EIS/EIR Section 3.11.2.1, *Study Area*, notes the National Recreation Association's conclusions that how far people are willing to travel to participate in various types of recreational activity varies and that, for ballfields, people generally are willing to travel up to 1 mile. Table 3.11-1, Parks and Recreational Facilities within 0.5 miles of the Project Site, identifies a baseball diamond in Del Rey Lagoon Park, 0.05 miles from the Project Site, and another one at Playa Vista Park, located 0.15 miles from the Project Site. The Del Rey American Little League uses the



American Field, located approximately 1.35 miles from the Project Site, and Del Rey Field, located approximately 0.25 miles from the Project Site. In the analysis of potential environmental justice impacts of Alternative 2, Draft EIS/EIR Table 3.14-8, Estimated Afternoon Travel Times from Del Rey to Little League Fields by Mode, reports travel times by car and bus to other fields used by the league fields. The related analysis concludes that within the minority and low-income neighborhoods within Census Tract 2755 (in Del Rey), “it is reasonable to expect that some participants that currently use or would use the Culver Marina Little League field for recreation would experience a disproportionately high and adverse impact related to access to organized recreational activities as a result of Alternative 2.”

- F1-9 See Response F1-2 acknowledging the role of the league within the community.
- F1-10 See Response F1-2 regarding the value and importance of baseball.
- F1-11 See Response F1-2.
- F1-12 The personal engagement in the league and care provided for the field over time are acknowledged and are now part of the record of information that will be considered as part of CDFW’s decision-making process. See Final EIR Section 2.1.1, *Input Received*.
- F1-13 See Response F1-2.



\_\_\_ Director Charlton H. Bonham  
 Richard Brody, Land Manager  
 California Dept. of Fish & Wildlife  
 3883 Ruffin Road, San Diego, CA 92123

1416 9th St, 12th Floor  
 SACRAMENTO, CA 95814

\_\_\_ Colonel Kirk E. Gibbs, Commander, 61st District  
 Daniel P. Swenson, Regulatory Division  
 U.S. Army Corps of Engineers  
 915 Wilshire Blvd., Los Angeles, CA 90017

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OCT 25 2017

October 17, 2017

DFW Director's Office

Dear Director Charlton H. Bonham; Richard Brody, Land Manager California Dept. of Fish & Wildlife; Colonel Kirk E. Gibbs, Commander, 61st District; and Daniel P. Swenson, Regulatory Division U.S. Army Corps of Engineers,

I am Dorothy Benveniste, a resident of Los Angeles CA, requesting a 120-day extension to read and make comments on the Ballona Wetlands Ecological Reserve DRAFT Environmental Impact Report / Environmental Impact Statement (DEIR/DEIS). There are 8,000 pages for me to read and digest.

F2-1

It has taken you 12 years to prepare this document. Please give the public until March to read and analyze the document. I am an UNPAID VOLUNTEER reading and trying to understand this in my free time. The current deadline ends the day after Thanksgiving.

Furthermore, I have observed that of the Four Alternatives you have presented there is not one Fresh Water Seasonal Wetland Alternative.

F2-2

According to professional studies of this wetland, it has not been FULL TIDAL for 2,000 years. Your Preferred Alternative proposes to dredge and berm approximately 60% of our existing wetlands. Alternatives 2 and 3 do this to a lesser but impactful degree. Much of the wildlife at Ballona depends on fresh water to survive, including the frogs. There are also Endangered Species and Species of Special concern at Ballona. They need a slow careful restoration that supports their survival.

F2-3

F2-4

I am asking for a Fresh Water Seasonal Wetland Alternative.

F2-5

Other comments Development in wetlands is against the law.  
We require restoration of Ballona Wetlands to its  
natural state, please!

F2-6

Sincerely

Name Dorothy Benveniste  
 Address 12895 Ranway Rd LA CA 90094  
 Email djbenven@ca.rr.com  
 Phone 714 743 1280

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OCT 25 2017

DFG  
 Office of the General Counsel



Director Charlton H. Bonham  
 Richard Brody, Land Manager  
 California Dept. of Fish & Wildlife  
 3683 Ruffin Road, San Diego, CA 92129

1416 9th St., 12th Floor  
 SACRAMENTO, CA 95814

Colonel Kirk E. Gibbs, Commander, 61st District  
 Daniel P. Swenson, Regulatory Division  
 U.S. Army Corps of Engineers  
 915 Wilshire Blvd., Los Angeles, CA 90017

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October 17, 2017

DFW Director's Office

Dear Director Charlton H. Bonham; Richard Brody, Land Manager California Dept. of Fish & Wildlife; Colonel Kirk E. Gibbs, Commander, 61st District; and Daniel P. Swenson, Regulatory Division U.S. Army Corps of Engineers,

I am SONATHAN COFFIN, a resident of INGLEWOOD, CA. requesting a 120-day extension to read and make comments on the Ballona Wetlands Ecological Reserve DRAFT Environmental Impact Report / Environmental Impact Statement (DEIR/DEIS). There are 8,000 pages for me to read and digest.

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I am asking for a Fresh Water Seasonal Wetland Alternative.

Other comments FROM MY KNOWLEDGE AND EXPERIENCE OF THE  
EXISTING BALLONA WETLAND ECOSYSTEM MY CONCERNS ARE  
THAT THERE IS NOT ENOUGH PROTECTION OF EXISTING RESOURCES  
IN ANY OF THE PROPOSED ALTERNATIVES.

F2-7

Sincerely

Name JONATHAN COFFIN  
 Address 436 W. REGENT ST. INGLEWOOD, CA 90301  
 Email JONATHAN.R.COFFIN@GMAIL  
 Phone \_\_\_\_\_

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OCT 25 2017

DFG  
 Office of the General Counsel

\_\_\_Director Charlton H. Bonham  
 Richard Brody, Land Manager  
 California Dept. of Fish & Wildlife  
~~3885 Ruffin Road, San Diego, CA 92123~~

1416 9th St., 12th Floor  
 SACRAMENTO, CA 95811  
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 OCT 17 2017  
 REGULATORY DIVISION  
 LOS ANGELES OFFICE

\_\_\_Colonel Kirk E. Gibbs, Commander, 61st District  
 Daniel P. Swenson, Regulatory Division  
 U.S. Army Corps of Engineers  
 915 Wilshire Blvd., Los Angeles, CA 90017

October 17, 2017

Dear Director Charlton H. Bonham; Richard Brody, Land Manager California Dept. of Fish & Wildlife; Colonel Kirk E. Gibbs, Commander, 61st District; and Daniel P. Swenson, Regulatory Division U.S. Army Corps of Engineers,

I am Kevin Dafesh, a resident of Playa Del Rey requesting a 120-day extension to read and make comments on the Ballona Wetlands Ecological Reserve DRAFT Environmental Impact Report / Environmental Impact Statement (DEIR/DEIS). There are 8,000 pages for me to read and digest.

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I am asking for a Fresh Water Seasonal Wetland Alternative.

Other comments Please extend the time to  
read the report and asking for  
a Fresh water Alternative.

F2-8

F2-9

Sincerely

Name Kevin Dafesh  
 Address 7743 W Manchester Ave #5 Playa Del Rey 90293  
 Email Kevin Dafesh @ yahoo.com  
 Phone 310 503 5414

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OCT 31 2017

Director Charlton H. Bonham  
 Richard Brody, Land Manager  
 California Dept. of Fish & Wildlife

~~9983 Ruffin Road, San Diego, CA 92123~~

1416 9th St, 12th Floor  
 SACRAMENTO, CA 95814  
 REGULATORY DIVISION  
 LOS ANGELES OFFICE  
 JULY

Colonel Kirk E. Gibbs, Commander, 61st District  
 Daniel P. Swenson, Regulatory Division  
 U.S. Army Corps of Engineers  
 915 Wilshire Blvd., Los Angeles, CA 90017

October 17, 2017

Dear Director Charlton H. Bonham; Richard Brody, Land Manager California Dept. of Fish & Wildlife; Colonel Kirk E. Gibbs, Commander, 61st District; and Daniel P. Swenson, Regulatory Division U.S. Army Corps of Engineers,

I am Jo Ann Dafesh, a resident of Westchester, CA, requesting a 120-day extension to read and make comments on the Ballona Wetlands Ecological Reserve DRAFT Environmental Impact Report / Environmental Impact Statement (DEIR/DEIS). There are 8,000 pages for me to read and digest.

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I am asking for a Fresh Water Seasonal Wetland Alternative.

Other comments I request that you extend the  
time to read the report and ask for a  
fresh water alternative

F2-10

F2-11

Sincerely

Name Jo Ann Dafesh  
 Address 5729 W 75th St  
 Email JDafesh@gmail.com  
 Phone (310) 642-2257



Director Charlton H. Bonham  
 Richard Brody, Land Manager  
 California Dept. of Fish & Wildlife  
 8003 Ruffin Road, San Diego, CA 92129

1416 Ninth St., 12th Fl.  
 SACRAMENTO, CA 95814

Colonel Kirk E. Gibbs, Commander, 61st District  
 Daniel P. Swenson, Regulatory Division  
 U.S. Army Corps of Engineers  
 915 Wilshire Blvd., Los Angeles, CA 90017

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OCT 25 2017

DFW Director's Office

October 17, 2017

Dear Director Charlton H. Bonham; Richard Brody, Land Manager California Dept. of Fish & Wildlife; Colonel Kirk E. Gibbs, Commander, 61st District; and Daniel P. Swenson, Regulatory Division U.S. Army Corps of Engineers,

I am Joe Faris, a resident of Santa Monica, CA requesting a 120-day extension to read and make comments on the Ballona Wetlands Ecological Reserve DRAFT Environmental Impact Report / Environmental Impact Statement (DEIR/DEIS). There are 8,000 pages for me to read and digest.

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I am asking for a Fresh Water Seasonal Wetland Alternative.

Other comments Having three more months to enable us to properly understand and respond to this EIR is only fair - please grant us this extension.

Sincerely, Joe Faris

Name Joe Faris  
 Address 1122 Oak Street, Santa Monica, CA 90405  
 Email drschwa@gmail.com  
 Phone 310 314-2011

F2-12



Director Charlton H. Bonham  
 Richard Brody, Land Manager  
 California Dept. of Fish & Wildlife  
 8863 Ruffin Road, San Diego, CA 92123

1416 9th St., 12th Floor  
 SACRAMENTO, CA 95814

Colonel Kirk E. Gibbs, Commander, 61st District  
 Daniel P. Swenson, Regulatory Division  
 U.S. Army Corps of Engineers  
 915 Wilshire Blvd., Los Angeles, CA 90017

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DFW Director's Office

October 17, 2017

Dear Director Charlton H. Bonham; Richard Brody, Land Manager California Dept. of Fish & Wildlife; Colonel Kirk E. Gibbs, Commander, 61st District; and Daniel P. Swenson, Regulatory Division U.S. Army Corps of Engineers,

I am MIRIAM FAUGNO, a resident of Playa del Rey, requesting a 120-day extension to read and make comments on the Ballona Wetlands Ecological Reserve DRAFT Environmental Impact Report / Environmental Impact Statement (DEIR/DEIS). There are 8,000 pages for me to read and digest.

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I am asking for a Fresh Water Seasonal Wetland Alternative.

Other comments Remove the GAS storage - not the Wildlife F2-13

Sincerely

Name MIRIAM FAUGNO  
 Address 7777 Wilshire St # B1160  
 Email mfaugno@gmail.com  
 Phone 310 305 1091

Director Charlton H. Bonham  
 Richard Brody, Land Manager  
 California Dept. of Fish & Wildlife  
 3883 Ruffin Road, San Diego, CA 92123

1416 9th St., 12th Floor  
 SACRAMENTO, CA 95814

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 Daniel P. Swenson, Regulatory Division  
 U.S. Army Corps of Engineers  
 915 Wilshire Blvd., Los Angeles, CA 90017

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OCT 25 2017

DFW Director's Office

October 17, 2017

Dear Director Charlton H. Bonham; Richard Brody, Land Manager California Dept. of Fish & Wildlife; Colonel Kirk E. Gibbs, Commander, 61st District; and Daniel P. Swenson, Regulatory Division U.S. Army Corps of Engineers,

I am BEN F HAMILTON, a resident of LOS ANGELES CA 90045 requesting a 120-day extension to read and make comments on the Ballona Wetlands Ecological Reserve DRAFT Environmental Impact Report / Environmental Impact Statement (DEIR/DEIS). There are 8,000 pages for me to read and digest.

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I am asking for a Fresh Water Seasonal Wetland Alternative.

Other comments I WORKED ON THE LOS ANGELES HARBOR ENVIRONMENTAL  
REPORT FOR US CORPS OF ENGINEERS WHILE EMPLOYED BY USE.  
I ACCUMULATED 170+ UNITS OF SCIENCE ALONE.

F2-14

Sincerely

Name BEN F HAMILTON  
 Address 7968 MC CONNELL AVE LOS ANGELES, CA 90045  
 Email ben.hamilton@sbcglobal.net  
 Phone 310-641-1469 310-592-7409 txt

Office of the General Counsel

OCT 25 2017

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Director Charlton H. Bonham  
 Richard Brody, Land Manager  
 California Dept. of Fish & Wildlife

~~3883 Buffin Road, San Diego, CA 92123~~

1416 9th St., 12th Floor  
 SACRAMENTO, CA 95814

Colonel Kirk E. Gibbs, Commander, 61st District  
 Daniel P. Swenson, Regulatory Division  
 U.S. Army Corps of Engineers  
 915 Wilshire Blvd., Los Angeles, CA 90017

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OCT 27 2017

DFW Director's Office

October 17, 2017

Dear Director Charlton H. Bonham; Richard Brody, Land Manager California Dept. of Fish & Wildlife; Colonel Kirk E. Gibbs, Commander, 61st District; and Daniel P. Swenson, Regulatory Division U.S. Army Corps of Engineers,

I am CINDY HARDIN, a resident of RAYA DEL REY, requesting a 120-day extension to read and make comments on the Ballona Wetlands Ecological Reserve DRAFT Environmental Impact Report / Environmental Impact Statement (DEIR/DEIS). There are 8,000 pages for me to read and digest.

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I am asking for a Fresh Water Seasonal Wetland Alternative.

Other comments THE EIR IS THOUSANDS OF PAGES, AND A 60 DAY PUBLIC COMMENT PERIOD IS WAY TOO BRIEF TO DIGEST THIS BEHEMOTH DOCUMENT. IN ADDITION, NONE OF THE

Sincerely

Name CINDY HARDIN  
 Address 1841 TALBERT ST RAYA DEL REY, CA 90293  
 Email CINDYHARDIN@LAANDURBAN.ORG  
 Phone 310 301 0050

F2-15

F2-16

ALTERNATIVES OFFER THE OPPORTUNITY TO BRING  
MORE FRESHWATER INTO BILLONA, SO A "REASONABLE  
RANGE OF ALTERNATIVES" DOES NOT CHARACTERIZE  
THIS DOCUMENT IN ITS CURRENT ITERATION.

↑  
F2-16  
cont.  
↓



Director Charlton H. Bonham  
 Richard Brody, Land Manager  
 California Dept. of Fish & Wildlife  
 3883 Ruffin Road, San Diego, CA 92123

1416 9th St., 12th Floor  
 SACRAMENTO, CA 95814

Colonel Kirk E. Gibbs, Commander, 61st District  
 Daniel P. Swenson, Regulatory Division  
 U.S. Army Corps of Engineers  
 915 Wilshire Blvd., Los Angeles, CA 90017

October 17, 2017

Dear Director Charlton H. Bonham; Richard Brody, Land Manager California Dept. of Fish & Wildlife; Colonel Kirk E. Gibbs, Commander, 61st District; and Daniel P. Swenson, Regulatory Division U.S. Army Corps of Engineers,

I am DAVID A. HOLMES, a resident of WOODLAND HILLS, CA 91364, requesting a 120-day extension to read and make comments on the Ballona Wetlands Ecological Reserve DRAFT Environmental Impact Report / Environmental Impact Statement (DEIR/DEIS). There are 8,000 pages for me to read and digest.

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I am asking for a Fresh Water Seasonal Wetland Alternative.

Other comments I have been involved in the Ballona Wetlands since I worked on Beethoven St. + Jefferson in the early 1980's. The draft proposals do not reflect what I supported for over 30 years

Sincerely David A. Holmes

Name DAVID A. HOLMES  
 Address 22216 MACFARLANE DR. WOODLAND HILLS, CA 91364  
 Email macfarlane@gmail.com  
 Phone (818) 746-6114

Office of the General Counsel  
 DFG

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F2-17

\_\_\_ Director Charlton H. Bonham  
 Richard Brody, Land Manager  
 California Dept. of Fish & Wildlife  
 3883 Ruffin Road, San Diego, CA 92123

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OCT 31 2017

REGULATORY DIVISION  
LOS ANGELES OFFICE

\_\_\_ Colonel Kirk E. Gibbs, Commander, 61st District  
 Daniel P. Swenson, Regulatory Division  
 U.S. Army Corps of Engineers  
 915 Wilshire Blvd., Los Angeles, CA 90017

October 17, 2017

Dear Director Charlton H. Bonham; Richard Brody, Land Manager California Dept. of Fish & Wildlife; Colonel Kirk E. Gibbs, Commander, 61st District; and Daniel P. Swenson, Regulatory Division U.S. Army Corps of Engineers,

I am Stacey Knowles, a resident of Westchester CA, requesting a 120-day extension to read and make comments on the Ballona Wetlands Ecological Reserve DRAFT Environmental Impact Report / Environmental Impact Statement (DEIR/DEIS). There are 8,000 pages for me to read and digest.

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I am asking for a Fresh Water Seasonal Wetland Alternative.

Other comments Please extend the time we have  
read the  
to report and ask for a fresh water  
alternative

F2-18

F2-19

Sincerely

Name Stacey Knowles  
 Address 8637 Yorktown Ave  
 Email knowles@regional.com  
 Phone (310) 337-0824

Director Charlton H. Bonham  
 Richard Brody, Land Manager  
 California Dept. of Fish & Wildlife

~~8880 Ruffin Road, San Diego, CA 92123~~

1416 9th St., 12th Floor  
 SACRAMENTO, CA 95814

Colonel Kirk E. Gibbs, Commander, 61st District  
 Daniel P. Swenson, Regulatory Division  
 U.S. Army Corps of Engineers  
 915 Wilshire Blvd., Los Angeles, CA 90017

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OCT 25 2017

DFW Director's Office

October 17, 2017

Dear Director Charlton H. Bonham; Richard Brody, Land Manager California Dept. of Fish & Wildlife; Colonel Kirk E. Gibbs, Commander, 61st District; and Daniel P. Swenson, Regulatory Division U.S. Army Corps of Engineers,

I am Dr. Nada Mach, a resident of Playa del Rey, CA, requesting a 120-day extension to read and make comments on the Ballona Wetlands Ecological Reserve DRAFT Environmental Impact Report / Environmental Impact Statement (DEIR/DEIS). There are 8,000 pages for me to read and digest.

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I am asking for a Fresh Water Seasonal Wetland Alternative.

Other comments Remove the gas storage - not the wildlife.  
This is a travesty!

Sincerely

Name Nada L. Mach Ph.D.  
 Address 8650 Gullana Ave., Unit C2062 Playa del Rey 90293  
 Email nmach@csudh.edu  
 Phone (310) 821-5994

Office of the General Counsel  
 Dr-G

OCT 25 2017

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F2-20



\_\_\_\_ Director Charlton H. Bonham  
 Richard Brody, Land Manager  
 California Dept. of Fish & Wildlife  
 3800 Ruffin Road, San Diego, CA 92123

1416 9<sup>TH</sup> ST., 12<sup>TH</sup> FLOOR  
 SACRAMENTO, CA 95814

\_\_\_\_ Colonel Kirk E. Gibbs, Commander, 61st District  
 Daniel P. Swenson, Regulatory Division  
 U.S. Army Corps of Engineers  
 915 Wilshire Blvd., Los Angeles, CA 90017

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October 17, 2017

DFW Director's Office

Dear Director Charlton H. Bonham; Richard Brody, Land Manager California Dept. of Fish & Wildlife; Colonel Kirk E. Gibbs, Commander, 61st District; and Daniel P. Swenson, Regulatory Division U.S. Army Corps of Engineers,

I am Dhun May a resident of Santa Monica requesting a 120-day extension to read and make comments on the Ballona Wetlands Ecological Reserve DRAFT Environmental Impact Report / Environmental Impact Statement (DEIR/DEIS). There are 8,000 pages ~~to read~~ to read and digest.

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I am asking for a Fresh Water Seasonal Wetland Alternative.

Other comments We earnestly want a gradual real restoration that respects life — not a development.  
Thank you in anticipation & God bless.

Sincerely

Name Dhun May

Address 644 Ashland Avenue, Santa Monica, CA 90405

Email mazdayasnie@netzero.net

Phone (310) 392-5911

F2-21



Director Charlton H. Bonham  
 Richard Brody, Land Manager  
 California Dept. of Fish & Wildlife  
 3883 Ruffin Road, San Diego, CA 92123

1416 9th St, 12th Floor  
 SACRAMENTO, CA 95814

Colonel Kirk E. Gibbs, Commander, 61st District  
 Daniel P. Swenson, Regulatory Division  
 U.S. Army Corps of Engineers  
 915 Wilshire Blvd., Los Angeles, CA 90017

RECEIVED

OCT 25 2017

October 17, 2017

Dear Director Charlton H. Bonham; Richard Brody, Land Manager, California Dept. of Fish & Wildlife; Colonel Kirk E. Gibbs, Commander, 61st District; and Daniel P. Swenson, Regulatory Division U.S. Army Corps of Engineers,

I am Ramona Merryman, a resident of Santa Monica, requesting a 120-day extension to read and make comments on the Ballona Wetlands Ecological Reserve DRAFT Environmental Impact Report / Environmental Impact Statement (DEIR/DEIS). There are 8,000 pages for me to read and digest.

It has taken you 12 years to prepare this document. Please give the public until March to read and analyze the document. I am an UNPAID VOLUNTEER reading and trying to understand this in my free time. The current deadline ends the day after Thanksgiving.

Furthermore, I have observed that of the Four Alternatives you have presented there is not one Fresh Water Seasonal Wetland Alternative.

According to professional studies of this wetland, it has not been FULL TIDAL for 2,000 years. Your Preferred Alternative proposes to dredge and berm approximately 60% of our existing wetlands. Alternatives 2 and 3 do this to a lesser but impactful degree. Much of the wildlife at Ballona depends on fresh water to survive, including the frogs. There are also Endangered Species and Species of Special concern at Ballona. They need a slow careful restoration that supports their survival.

I am asking for a Fresh Water Seasonal Wetland Alternative.

Other comments 3 Alternatives in this document fail to adequately address

current, open fresh water courses through the impacted areas, please dumping  
and compacting landfill on threatened, endangered species residing in the  
Ballona wetlands, and nowhere else. There is no alternative for a slow careful  
wetland restoration

Sincerely

Name Ramona Merryman  
 Address 1233 6th St #1203 Santa Monica Ca 90401  
 Email \_\_\_\_\_  
 Phone 310-391-2575

F2-22

Director Charlton H. Bonham  
 Richard Brody, Land Manager  
 California Dept. of Fish & Wildlife  
 9885 Ruffin Road, San Diego, CA 92123

1416 9th St., 12th Floor  
 SACRAMENTO, CA 95814

Colonel Kirk E. Gibbs, Commander, 61st District  
 Daniel P. Swenson, Regulatory Division  
 U.S. Army Corps of Engineers  
 915 Wilshire Blvd., Los Angeles, CA 90017

RECEIVED

OCT 25 2017

DFW Director's Office

October 17, 2017

Dear Director Charlton H. Bonham; Richard Brody, Land Manager California Dept. of Fish & Wildlife; Colonel Kirk E. Gibbs, Commander, 61st District; and Daniel P. Swenson, Regulatory Division U.S. Army Corps of Engineers,

I am JACK NEFF, a resident of LOS ANGELES, CA, requesting a 120-day extension to read and make comments on the Ballona Wetlands Ecological Reserve DRAFT Environmental Impact Report / Environmental Impact Statement (DEIR/DEIS). There are 8,000 pages for me to read and digest.

It has taken you 12 years to prepare this document. Please give the public until March to read and analyze the document. I am an UNPAID VOLUNTEER reading and trying to understand this in my free time. The current deadline ends the day after Thanksgiving.

Furthermore, I have observed that of the Four Alternatives you have presented there is not one Fresh Water Seasonal Wetland Alternative.

According to professional studies of this wetland, it has not been FULL TIDAL for 2,000 years. Your Preferred Alternative proposes to dredge and berm approximately 60% of our existing wetlands. Alternatives 2 and 3 do this to a lesser but impactful degree. Much of the wildlife at Ballona depends on fresh water to survive, including the frogs. There are also Endangered Species and Species of Special concern at Ballona. They need a slow careful restoration that supports their survival.

I am asking for a Fresh Water Seasonal Wetland Alternative.

Other comments 3 ALTERNATIVES IN THIS DOCUMENT FAIL TO ADEQUATELY ADDRESS CURRENT, OPEN FRESH WATER COURSES THROUGH THE IMPACTED AREAS, FORESEE DUMPING/COMPACTING LANDFILL ON THREATENED, ENDANGERED SPECIES RESIDING IN THE BALLONA WETLANDS, AND NOWHERE ELSE.

Sincerely

Name Jack Neff  
 Address P.O. BOX 491272 LA, CA 90049  
 Email JACKNEFF@YAHOO.COM  
 Phone 310 612-2279

THERE IS NO ALTERNATIVE FOR A SLOW, CAREFUL WETLAND RESTORATION.

F2-23



Director Charlton H. Bonham  
 Richard Brody, Land Manager  
 California Dept. of Fish & Wildlife  
~~3885 Ruffin Road, San Diego, CA 92123~~

1416 9th St, 12th Floor  
 SACRAMENTO, CA 95814

Colonel Kirk E. Gibbs, Commander, 61st District  
 Daniel P. Swenson, Regulatory Division  
 U.S. Army Corps of Engineers  
 915 Wilshire Blvd., Los Angeles, CA 90017

RECEIVED

OCT 25 2017

October 17, 2017

DFW Director's Office

Dear Director Charlton H. Bonham; Richard Brody, Land Manager California Dept. of Fish & Wildlife; Colonel Kirk E. Gibbs, Commander, 61st District; and Daniel P. Swenson, Regulatory Division U.S. Army Corps of Engineers,

I am Elizabeth A. Pollock, a resident of Del Rey (Culver City 90230) requesting a 120-day extension to read and make comments on the Ballona Wetlands Ecological Reserve DRAFT Environmental Impact Report / Environmental Impact Statement (DEIR/DEIS). There are 8,000 pages for me to read and digest.

It has taken you 12 years to prepare this document. Please give the public until March to read and analyze the document. I am an UNPAID VOLUNTEER reading and trying to understand this in my free time. The current deadline ends the day after Thanksgiving, Nov. 24, 2017.

Furthermore, I have observed that of the Four Alternatives you have presented there is not one Fresh Water Seasonal Wetland Alternative.

According to professional studies of this wetland, it has not been FULL TIDAL for 2,000 years. Your Preferred Alternative proposes to dredge and berm approximately 60% of our existing wetlands. Alternatives 2 and 3 do this to a lesser but impactful degree. Much of the wildlife at Ballona depends on fresh water to survive, including the frogs. There are also Endangered Species and Species of Special concern at Ballona. They need a slow careful restoration that supports their survival.

\* I am asking for a Fresh Water Seasonal Wetland Alternative.

Other comments The "uplands" are debris that was dredged to  
create Marina del Rey in the 1960s. It would be better to remove  
the debris and restore the land to its pre-1960s condition.  
Do not dump anything in Area C (east of Lincoln)

Sincerely

Name Elizabeth A. Pollock  
 Address 11923 Bray St, Culver City CA 90230  
 Email eliz.pollock@gmail.com  
 Phone (310) 6995165

RECEIVED

OCT 25 2017

DFG  
 Office of the General Counsel

F2-24

F2-25

Director Charlton H. Bonham  
 Richard Brody, Land Manager  
 California Dept. of Fish & Wildlife  
 3883 Ruffin Road, San Diego, CA 92123

1416 9th St. 12th Floor  
 SACRAMENTO, CA 95814

Colonel Kirk E. Gibbs, Commander, 61st District  
 Daniel P. Swenson, Regulatory Division  
 U.S. Army Corps of Engineers  
 915 Wilshire Blvd., Los Angeles, CA 90017

RECEIVED

001 27

REGULATORY DIVISION  
 LOS ANGELES OFFICE

October 17, 2017

Dear Director Charlton H. Bonham; Richard Brody, Land Manager California Dept. of Fish & Wildlife; Colonel Kirk E. Gibbs, Commander, 61st District; and Daniel P. Swenson, Regulatory Division U.S. Army Corps of Engineers,

I am Beverly Powers, a resident of Plaza Del Rey, CA requesting a 120-day extension to read and make comments on the Ballona Wetlands Ecological Reserve DRAFT Environmental Impact Report / Environmental Impact Statement (DEIR/DEIS). There are 8,000 pages for me to read and digest.

- 1) It has taken you 12 years to prepare this document. Please give the public until March to read and analyze the document. I am an UNPAID VOLUNTEER reading and trying to understand this in my free time. The current deadline ends the day after Thanksgiving.
- 2) Furthermore, I have observed that of the Four Alternatives you have presented there is not one Fresh Water Seasonal Wetland Alternative.

According to professional studies of this wetland, it has not been FULL TIDAL for 2,000 years. Your Preferred Alternative proposes to dredge and berm approximately 60% of our existing wetlands. Alternatives 2 and 3 do this to a lesser but impactful degree. Much of the wildlife at Ballona depends on fresh water to survive, including the frogs. There are also Endangered Species and Species of Special concern at Ballona. They need a slow careful restoration that supports their survival.

I am asking for a Fresh Water Seasonal Wetland Alternative.

Other comments

1) Investigation of the Fresh Water Storage IN the Wetlands MUST be addressed as part of the restoration  
 2) Extend Public review to 120 days due to vast size of document  
 3) Include a Fresh Water (Seasonal) Alternative

F2-26

F2-27

F2-28

Sincerely  
 Name Beverly Powers  
 Address 10200 Vista Del Mar, PDR, CA 90293  
 Email beverlypowers@yahoo.com  
 Phone 310-434-2230



Director Charlton H. Bonham  
Richard Brody, Land Manager  
California Dept. of Fish & Wildlife  
~~3883 Ruffin Road, San Diego, CA 92123~~

1416 9th St, 12th Floor  
SACRAMENTO, CA 95814

Colonel Kirk E. Gibbs, Commander, 61st District  
Daniel P. Swenson, Regulatory Division  
U.S. Army Corps of Engineers  
915 Wilshire Blvd., Los Angeles, CA 90017

RECEIVED

OCT 25 2017

DFW Director's Office

October 17, 2017

Dear Director Charlton H. Bonham; Richard Brody, Land Manager California Dept. of Fish & Wildlife; Colonel Kirk E. Gibbs, Commander, 61st District; and Daniel P. Swenson, Regulatory Division U.S. Army Corps of Engineers,

I am Ber-Sue Powers, a resident of Playa Del Rey, CA requesting a 120-day extension to read and make comments on the Ballona Wetlands Ecological Reserve DRAFT Environmental Impact Report / Environmental Impact Statement (DEIR/DEIS). There are 8,000 pages for me to read and digest.

It has taken you 12 years to prepare this document. Please give the public until March to read and analyze the document. I am an UNPAID VOLUNTEER reading and trying to understand this in my free time. The current deadline ends the day after Thanksgiving.

Furthermore, I have observed that of the Four Alternatives you have presented there is not one Fresh Water Seasonal Wetland Alternative.

According to professional studies of this wetland, it has not been FULL TIDAL for 2,000 years. Your Preferred Alternative proposes to dredge and berm approximately 60% of our existing wetlands. Alternatives 2 and 3 do this to a lesser but impactful degree. Much of the wildlife at Ballona depends on fresh water to survive, including the frogs. There are also Endangered Species and Species of Special concern at Ballona. They need a slow careful restoration that supports their survival.

I am asking for a Fresh Water Seasonal Wetland Alternative.

Other comments 1) Mitigation of Gas Storage in Ballona Wetlands MUST be addressed as part of the restoration!

2) Recreational fishing has NO place in urban environments (eg. Hunting is NOT allowed in comparison) therefore NO fishing must be included as part of the restoration, urban wetlands

Sincerely  
Name \_\_\_\_\_  
Address \_\_\_\_\_  
Email \_\_\_\_\_  
Phone \_\_\_\_\_

F2-29

F2-30

✓ Director Charlton H. Bonham  
 Richard Brody, Land Manager  
 California Dept. of Fish & Wildlife  
~~3683 Ruffin Road, San Diego, CA 92128~~

1416 9<sup>th</sup> ST., SECOND FLOOR  
 SACRAMENTO, CA 95814

Colonel Kirk E. Gibbs, Commander, 61st District  
 Daniel P. Swenson, Regulatory Division  
 U.S. Army Corps of Engineers  
 915 Wilshire Blvd., Los Angeles, CA 90017

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NOV 01 2017

October 17, 2017

DFW Director's Office

Dear Director Charlton H. Bonham; Richard Brody, Land Manager California Dept. of Fish & Wildlife; Colonel Kirk E. Gibbs, Commander, 61st District; and Daniel P. Swenson, Regulatory Division U.S. Army Corps of Engineers,

I am Todd Vosburg, a resident of Mar Vista, requesting a 120-day extension to read and make comments on the Ballona Wetlands Ecological Reserve DRAFT Environmental Impact Report / Environmental Impact Statement (DEIR/DEIS). There are 8,000 pages for me to read and digest.

It has taken you 12 years to prepare this document. Please give the public until March to read and analyze the document. I am an UNPAID VOLUNTEER reading and trying to understand this in my free time. The current deadline ends the day after Thanksgiving.

Furthermore, I have observed that of the Four Alternatives you have presented there is not one Fresh Water Seasonal Wetland Alternative.

According to professional studies of this wetland, it has not been FULL TIDAL for 2,000 years. Your Preferred Alternative proposes to dredge and berm approximately 60% of our existing wetlands. Alternatives 2 and 3 do this to a lesser but impactful degree. Much of the wildlife at Ballona depends on fresh water to survive, including the frogs. There are also Endangered Species and Species of Special concern at Ballona. They need a slow careful restoration that supports their survival.

I am asking for a Fresh Water Seasonal Wetland Alternative. and a 120 day extension of the comment period  
 Other comments \_\_\_\_\_

F2-31

Sincerely

Name Todd Vosburg  
 Address 4124 East Blvd.  
 Email Los Angeles, CA 90066-4610  
 Phone 310-721-3612



\_\_\_\_ Director Charlton H. Bonham  
 Richard Brody, Land Manager  
 California Dept. of Fish & Wildlife  
 3883 Ruffin Road, San Diego, CA 92123

1416 9th St, 12th Floor  
 SACRAMENTO, CA 95814

\_\_\_\_ Colonel Kirk E. Gibbs, Commander, 61st District  
 Daniel P. Swenson, Regulatory Division  
 U.S. Army Corps of Engineers  
 915 Wilshire Blvd., Los Angeles, CA 90017

RECEIVED

NOV 01 2017

DFW Director's Office

October 17, 2017

Dear Director Charlton H. Bonham; Richard Brody, Land Manager California Dept. of Fish & Wildlife; Colonel Kirk E. Gibbs, Commander, 61st District; and Daniel P. Swenson, Regulatory Division U.S. Army Corps of Engineers,

I am Kelby Wright, a resident of Los Angeles, requesting a 120-day extension to read and make comments on the Ballona Wetlands Ecological Reserve DRAFT Environmental Impact Report / Environmental Impact Statement (DEIR/DEIS). There are 8,000 pages for me to read and digest.

It has taken you 12 years to prepare this document. Please give the public until March to read and analyze the document. I am an UNPAID VOLUNTEER reading and trying to understand this in my free time. The current deadline ends the day after Thanksgiving.

Furthermore, I have observed that of the Four Alternatives you have presented there is not one Fresh Water Seasonal Wetland Alternative.

According to professional studies of this wetland, it has not been FULL TIDAL for 2,000 years. Your Preferred Alternative proposes to dredge and berm approximately 60% of our existing wetlands. Alternatives 2 and 3 do this to a lesser but impactful degree. Much of the wildlife at Ballona depends on fresh water to survive, including the frogs. There are also Endangered Species and Species of Special concern at Ballona. They need a slow careful restoration that supports their survival.

I am asking for a Fresh Water Seasonal Wetland Alternative.

Other comments I request that you extend the  
time to read the report and ask for  
a fresh water alternative

F2-32

F2-33

Sincerely

Name Kelby Wright  
 Address 5729 W 75th Street, CA CA 90045  
 Email mrs.wright@verizon.net  
 Phone 310 641-1187

Director Charlton H. Bonham  
 Richard Brody, Land Manager  
 California Dept. of Fish & Wildlife  
 9883 Ruffin Road, San Diego, CA 92123

1416 9th St., 12th Floor  
 SACRAMENTO, CA 95814

RECEIVED

NOV 01 2017

DFW Director's Office

Colonel Kirk E. Gibbs, Commander, 61st District  
 Daniel P. Swenson, Regulatory Division  
 U.S. Army Corps of Engineers  
 915 Wilshire Blvd., Los Angeles, CA 90017

October 17, 2017

Dear Director Charlton H. Bonham; Richard Brody, Land Manager California Dept. of Fish & Wildlife; Colonel Kirk E. Gibbs, Commander, 61st District; and Daniel P. Swenson, Regulatory Division U.S. Army Corps of Engineers.

I am Joseph Knowles, a resident of Westchester, requesting a 120-day extension to read and make comments on the Ballona Wetlands Ecological Reserve DRAFT Environmental Impact Report / Environmental Impact Statement (DEIR/DEIS). There are 8,000 pages for me to read and digest.

It has taken you 12 years to prepare this document. Please give the public until March to read and analyze the document. I am an UNPAID VOLUNTEER reading and trying to understand this in my free time. The current deadline ends the day after Thanksgiving.

Furthermore, I have observed that of the Four Alternatives you have presented there is not one Fresh Water Seasonal Wetland Alternative.

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I am asking for a Fresh Water Seasonal Wetland Alternative.

Other comments Please approve the 120 day extension  
and give a fresh water alternative.

F2-34

F2-35

Sincerely

Name Joseph Knowles  
 Address 8637 Yorktown Ave.  
 Email Knowles10@sbcglobal.net  
 Phone (310) 383-0621



Director Charlton H. Bonham  
 Richard Brody, Land Manager  
 California Dept. of Fish & Wildlife  
~~3683 Ruffin Road, San Diego, CA 92123~~

1416 9th St. 12th Floor  
 SACRAMENTO, CA 95814

Colonel Kirk E. Gibbs, Commander, 61st District  
 Daniel P. Swenson, Regulatory Division  
 U.S. Army Corps of Engineers  
 915 Wilshire Blvd., Los Angeles, CA 90017

RECEIVED

NOV 01 2017

DFW Director's Office

October 17, 2017

Dear Director Charlton H. Bonham; Richard Brody, Land Manager California Dept. of Fish & Wildlife; Colonel Kirk E. Gibbs, Commander, 61st District; and Daniel P. Swenson, Regulatory Division U.S. Army Corps of Engineers,

I am Kevin Dafesh, a resident of Playa Del Rey, requesting a 120-day extension to read and make comments on the Ballona Wetlands Ecological Reserve DRAFT Environmental Impact Report / Environmental Impact Statement (DEIR/DEIS). There are 8,000 pages for me to read and digest.

It has taken you 12 years to prepare this document. Please give the public until March to read and analyze the document. I am an UNPAID VOLUNTEER reading and trying to understand this in my free time. The current deadline ends the day after Thanksgiving.

Furthermore, I have observed that of the Four Alternatives you have presented there is not one Fresh Water Seasonal Wetland Alternative.

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I am asking for a Fresh Water Seasonal Wetland Alternative.

Other comments Please approve the 120 day extension F2-36  
and give a fresh water alternative F2-37

Sincerely

Name Kevin Dafesh  
 Address 7743 W Manchester Ave #5 Playa Del Rey 90295  
 Email Kevin.Dafesh@yahoo.com  
 Phone 310 503 5414

## Letter F2: Form Letter 2

The Lead Agencies received 21 form letters that were similar and lacked unique comments. Those form letters are included in the record of information that will be considered as part of CDFW's decision-making process. Responses to those form letters appear below in Responses F2-1 through F2-5.

- F2-1 See General Response 8, *Public Participation* (Final EIR Section 2.2.8.1), regarding the Lead Agencies' decision not to further extend the comment period beyond 133 days.
- F2-2 See General Response 3, *Alternatives* (Final EIR Section 2.2.3.1), which addresses multiple requests that the Lead Agencies consider a "freshwater alternative" as well as the historical accuracy of the proposed alternatives. See also General Response 3, *Alternatives* (Final EIR Section 2.2.3.2), which addresses multiple comments received regarding the historical accuracy of the proposed project and restoration alternatives analyzed in detail in the EIS/EIR.
- F2-3 The comment that wildlife including frogs depend on fresh water to survive is acknowledged. However, this statement does not address the adequacy or accuracy of the EIS/EIR or the merits of the alternatives. Nevertheless, it is now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.
- F2-4 The presence of rare plant and wildlife species, including endangered species and species of species concern, within the Ballona Reserve is well described in Draft EIS/EIR Section 3.4, *Biological Resources*. CDFW agrees that restoration should be performed in a manner that furthers the continued survival of rare species. This is consistent with the restoration approaches proposed for Alternatives 1, 2, and 3.
- F2-5 See General Response 3, *Alternatives* (Final EIR Section 2.2.3.1), which addresses requests for a "freshwater alternative."
- F2-6 Development in wetlands (including, for example, dredging, filling, and grading within wetlands) is regulated by the Corps pursuant to its permitting authority under Section 404 of the Clean Water Act, by Regional Water Quality Control Boards pursuant to their permitting authority under the state's Porter-Cologne Water Quality Control Act, and often by the Coastal Commission under the Coastal Act. As disclosed in Draft EIS/EIR Section 1.5.1, "CDFW has submitted an application seeking dredge and fill activities in waters/navigable waters of the U.S. to construct new levees, form new tidal channels, modify existing tidal channels, re-contour areas to enhance tidal flow, and to create elevations conducive to establishing wetland habitat as part of Alternative 1: Full Tidal Restoration/Proposed Action." See also Table 1-1, Summary of Required Permits and Approvals, in Chapter 1, which identifies a Section 404 permit as one of the various permits that would be required for the Project. The stated preference for restoration to a "natural state" is



- acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.
- F2-7 The stated preference for additional protection of existing resources relative to what is proposed via Alternatives 1, 2, and 3 is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process.
- F2-8 See General Response 8, *Public Participation* (Final EIR Section 2.2.8.1), regarding CDFW's decision not to further extend the comment period beyond 133 days.
- F2-9 See General Response 3, *Alternatives* (Final EIR Section 2.2.3.1), which addresses multiple requests that the Lead Agencies consider a "freshwater alternative."
- F2-10 See General Response 8, *Public Participation* (Final EIR Section 2.2.8.1), regarding CDFW's decision not to further extend the comment period beyond 133 days.
- F2-11 See General Response 3, *Alternatives* (Final EIR Section 2.2.3.1), which addresses multiple requests that CDFW consider a "freshwater alternative."
- F2-12 See General Response 8, *Public Participation* (Final EIR Section 2.2.8.1), regarding CDFW's decision not to further extend the comment period beyond 133 days.
- F2-13 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.3), regarding the proposed removal of SoCalGas Company infrastructure from within the Ballona Reserve.
- F2-14 The stated work with the Corps on environmental analysis at the Los Angeles Harbor is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.
- F2-15 See General Response 8, *Public Participation* (Final EIR Section 2.2.8.1), regarding CDFW's decision not to further extend the comment period beyond 133 days.
- F2-16 See General Response 3, *Alternatives* (Final EIR Section 2.2.3), which addresses multiple questions about the range of alternatives analyzed in the Draft EIS/EIR and the request that CDFW consider a "freshwater alternative."
- F2-17 The stated involvement with the Ballona Wetlands since the early 1980s and lack of support for the proposed restoration are acknowledged and are now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.
- F2-18 See General Response 8, *Public Participation* (Final EIR Section 2.2.8.1), regarding CDFW's decision not to further extend the comment period beyond 133 days.



- F2-19 See General Response 3, *Alternatives* (Final EIR Section 2.2.3.1), which addresses multiple requests that CDFW consider a “freshwater alternative.”
- F2-20 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.3), regarding the proposed removal of SoCalGas Company infrastructure from within the Ballona Reserve.
- F2-21 The stated preference for gradual restoration is acknowledged and is now part of the record of information that will be considered as part of CDFW’s decision-making process. See Final EIR Section 2.1.1, *Input Received*.
- F2-22 Existing conditions are described in the Draft EIS/EIR on a resource-by-resource basis throughout Chapter 3, *Environmental Consequences*. See, e.g., Hydrology and Water Quality Section 3.9.2, *Affected Environment*, regarding watercourses and drainages within the Ballona Reserve; and Biological Resources Section 3.4.2, *Affected Environment*, and Geology, Seismicity, and Soils Section 3.6.2, *Affected Environment*, regarding existing soils-related habitat conditions within the Ballona Reserve. The stated preference for gradual restoration is acknowledged and is now part of the record of information that will be considered as part of CDFW’s decision-making process. See Final EIR Section 2.1.1, *Input Received*. See also General Response 3, *Alternatives* (Final EIR Section 2.2.3), which addresses the selection of Alternatives that were considered in the Draft EIS/EIR.
- F2-23 See Response F2-22.
- F2-24 As presented in Section ES.1 of the Draft EIS/EIR, “Approximately 2.8 to 3.5 million cubic yards (cy) of dirt was dumped on top of the wetlands during the construction of Marina del Rey in the 1950s, transforming what had been wetlands abundant with fish and waterfowl into upland and degraded wetlands.” As explained in Section 3.5.2.5, “most of the on-site wetlands were filled in as a result of construction of Marina del Rey in the 1950s and 1960s, as well as State Route 90 (SR 90). ... Dredge spoils from construction of Marina del Rey were deposited as fill across the north and northwestern portion of the Project site [citation omitted], including Area A and Area C.” Regarding Area A, see also Section 1.2.1, Section 2.2.2.2, Section 3.6.2.2, Section 3.8.2.2, Section 3.9.2.2. Regarding Area C, see also Section 1.2.1, Section 3.6.2.2, and Section 3.8.2.2.
- As suggested in this comment, fill material resulting from the construction of Marina del Rey would be removed pursuant to Alternatives 1, 2, and 3. Regarding Alternative 1, see, e.g., Draft EIS/EIR Section 2.2.2.1 (“In Area A, soil that was deposited during the construction of Marina del Rey and Ballona Creek would be removed to recreate marsh plain habitats near the creek then slope up through transition zone and upland to a levee crest adjacent to Fiji Way inside the Ballona Reserve”) and Section 3.3.6.1 (“Alternative 1 would remove fill materials that were placed in Area A during the development of Marina del Rey”). Regarding Alternative 2, see, e.g., Section 3.3.6.2 (“Alternative 2 would result in removal of fill



- that was placed in Area A during the development of Marina del Rey”). Regarding Alternative 3, see, e.g., Section 3.3.6.3 (“Alternative 3 would result in removal of fill that was placed in Area A during the development of Marina del Rey”).
- F2-25 The stated preference not to deposit any materials in Area C is acknowledged and is now part of the record of information that will be considered as part of CDFW’s decision-making process. However, as noted in Draft EIS/EIR Section 1.2.2.1, *Alternative 1: Full Tidal Restoration/Proposed Action*, the placement of fill and dredged materials in Area C would help fulfill the intended purpose of enhancing physical and biological functions within the upland areas that reestablish native vegetation and provide important habitat for a variety of wildlife species.
- F2-26 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.3), regarding the proposed removal of SoCalGas Company infrastructure from within the Ballona Reserve.
- F2-27 See General Response 8, *Public Participation* (Final EIR Section 2.2.8.1), regarding CDFW’s decision not to further extend the comment period beyond 133 days.
- F2-28 See General Response 3, *Alternatives* (Final EIR Section 2.2.3.1), which addresses multiple requests that CDFW consider a “freshwater alternative.”
- F2-29 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.3), regarding the proposed removal of SoCalGas Company infrastructure from within the Ballona Reserve.
- F2-30 Pursuant to regulations governing uses within the Ballona Reserve (14 CCR §630(e)(3)), fishing is “prohibited except from designated areas on the shore of the Ballona Creek flood control channel or from a boat within the channel. Barbless hooks only.” This prohibition would not be affected by any of the alternatives evaluated in the Draft EIS/EIR.
- F2-31 See General Response 8, *Public Participation* (Final EIR Section 2.2.8.1), regarding CDFW’s decision not to further extend the comment period beyond 133 days.
- F2-32 See General Response 8, *Public Participation* (Final EIR Section 2.2.8.1), regarding CDFW’s decision not to further extend the comment period beyond 133 days.
- F2-33 See General Response 3, *Alternatives* (Final EIR Section 2.2.3.1), which addresses multiple requests that CDFW consider a “freshwater alternative.”
- F2-34 See General Response 8, *Public Participation* (Final EIR Section 2.2.8.1), regarding CDFW’s decision not to further extend the comment period beyond 133 days.
- F2-35 See General Response 3, *Alternatives* (Final EIR Section 2.2.3.1), which addresses multiple requests that CDFW consider a “freshwater alternative.”



- F2-36 See General Response 8, *Public Participation* (Final EIR Section 2.2.8.1), regarding CDFW's decision not to further extend the comment period beyond 133 days.
- F2-37 See General Response 3, *Alternatives* (Final EIR Section 2.2.3.1), which addresses multiple requests that CDFW consider a "freshwater alternative."





## Form Letter F3

Dear Richard Brody,

I stand with the Wetlands Restoration Principles Coalition in supporting science-based restoration of the Ballona Wetlands. Here's why:

- ☒ Functional wetlands are essential to clean air and water.
- ☒ I am concerned about flood protection and sea level rise.
- ☒ Restoring native habitat increases biodiversity and benefits wildlife, many of which are threatened or endangered.
- ☒ Open public access to trails allows everyone to learn about and appreciate our urban green spaces.
- ☐ Another reason:

Richard Brody, CDFW  
c/o ESA (jas)  
5500 Kearney Street, Suite 800  
San Francisco, CA 94108

F3-1

Sincerely,

Name: Abby Vinson

Address: 4550 Overland #227

City, State, Zip: LA CA 90064



## **Letter F3: Wetlands Restoration Principles Coalition Form Comment Card**

F3-1      Support for science-based restoration within the Ballona Reserve (including the benefits of functioning wetlands for air, water, native habitat, and resiliency to the impacts of sea-level rise) and support for public access to the Ballona Reserve are acknowledged and are now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.



Dear Mr. Bonham:

I am writing to urge you to extend the public comment period for the Draft Environmental Impact Report/Statement (DEIR/DEIS) for the Ballona Wetlands Restoration Project from Feb. 5th to March 24th and to schedule at least two additional public hearings regarding this document.

The DEIR/DEIS took nearly a decade to prepare and runs more than 8,000 pages. To say it is complex would be an understatement. Asking us to read, analyze and comment on it by Feb. 5th is unrealistic, and unfair, particularly given the demands of the holiday season.

The project proposed by the DEIR/DEIS is massive and far-reaching in its potential impact. A single opportunity for public input is grossly insufficient. I request at least two additional public hearings. In light of the high level of interest this project has raised, there must be ample opportunity for all stakeholders to voice their concerns.

Thank you.

F4-1

F4-2

F4-3

SUSAN MITCHELL LOS ANGELES CA 900

10916 KEDMERE ST

CULVER CITY, CA 90230



DEC 27 2017

DFW Director's Office

Mr. Charlton H. Bonham

Director

California Department of

Fish & Wildlife

1416 9th St.

4th Floor

Sacramento, CA 95814

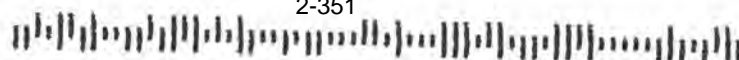
Please extend the  
Public Comment Period  
for the Ballona Wetlands  
Restoration Project DEIR/DEIS  
to March 24, 2018, and schedule  
2 additional Public Hearings.

Office of the General Counsel  
DFG

DEC 27 2017

RECEIVED

Printed In-house



F4-4

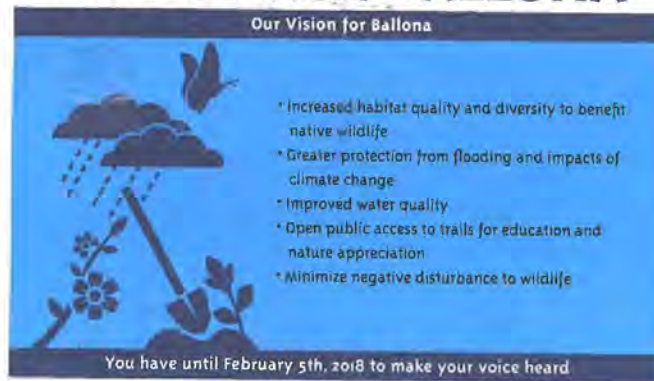


## **Letter F4: Form Comment Card 1**

- F4-1      See General Response 8, *Public Participation* (Final EIR Section 2.2.8.1), regarding the comment period extension granted by CDFW.
- F4-2      See General Response 8, *Public Participation* (Final EIR Section 2.2.8.2), regarding the request for additional public meetings.
- F4-3      See General Response 8, *Public Participation* (Final EIR Section 2.2.8.1), regarding CDFW's decision not to further extend the comment period beyond 133 days.
- F4-4      See General Response 8, *Public Participation* (Final EIR Section 2.2.8.1), regarding CDFW's decision not to further extend the comment period beyond 133 days and General Response 8, *Public Participation* (Final EIR Section 2.2.8.2), regarding the decision not to hold additional public comment meetings.

# BRING BACK BALLONA

Form Letter F5



F5-1

Dear Richard Brody

LOS ANGELES CA 900



I stand with Friends of Ballona Wetlands in supporting science-based restoration of the Ballona Wetlands.

Here's why:

- ☒ Functional wetlands are essential to clean air and water.
- ☒ I am concerned about flood protection and sea level rise.
- ☒ Restoring native habitat increases biodiversity and benefits wildlife, many of which are threatened or endangered.
- ☒ Open public access to trails allow everyone to learn about and appreciate our urban green spaces.
- ☐ Another reason:

Richard Brody, CDFW  
c/o ESA (jas)  
5500 Kearny Street, Suite 800  
San Francisco, CA 94108

F5-2

Sincerely,

Name: Noah Youngelson

Address: 2449 Walgrove Ave

City, State, Zip: Los Angeles, CA 90010

Dear Richard Brody

LOS ANGELES CA 900



I stand with Friends of Ballona Wetlands in supporting science-based restoration of the Ballona Wetlands.

Here's why:

- ☒ Functional wetlands are essential to clean air and water.
- ☒ I am concerned about flood protection and sea level rise.
- ☒ Restoring native habitat increases biodiversity and benefits wildlife, many of which are threatened or endangered.
- ☒ Open public access to trails allow everyone to learn about and appreciate our urban green spaces.
- ☐ Another reason:

Richard Brody, CDFW  
c/o ESA (jas)  
5500 Kearny Street, Suite 800  
San Francisco, CA 94108

Sincerely,

Name: ROBERT EATON

Address: 5837 VILLAGE DRIVE #5

City, State, Zip: Van Nuys, CA 91411

Dear Richard Brody

LOS ANGELES CA 900



I stand with Friends of Ballona Wetlands in supporting science-based restoration of the Ballona Wetlands.

Here's why:

- ☒ Functional wetlands are essential to clean air and water.
- ☐ I am concerned about flood protection and sea level rise.
- ☒ Restoring native habitat increases biodiversity and benefits wildlife, many of which are threatened or endangered.
- ☐ Open public access to trails allow everyone to learn about and appreciate our urban green spaces.
- ☐ Another reason:

Richard Brody, CDFW  
c/o ESA (jas)  
5500 Kearny Street, Suite 800  
San Francisco, CA 94108

Sincerely,

Name: Joanvic Lopez

Address: 8334 Colagio Drive

City, State, Zip: Los Angeles, CA 90045



## **Letter F5: Friends of Ballona Wetlands Comment Card**

- F5-1      Appreciation of the benefits of functioning wetlands for wildlife habitats, water quality, and resiliency to the impacts of flooding and climate change; support for public access to the Ballona Reserve; and preference for minimizing impacts to wildlife are acknowledged and are now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.
- F5-2      See Response F3-1 regarding support for science-based restoration within the Ballona Reserve.



JUDITH DAVIES  
623 MARINE ST #2  
SANTA MONICA, CA  
90405

F6-1

Please extend the Public Comment  
Period on the  
Ballona Wetlands Ecological Reserve  
Draft EIR/EIS TO March 24, 2018.

(CURRENT  
DEADLINE FEB 5)

RECEIVED

FEB 12 2018

Director Charlton H. Bonham  
Office of the General Counsel  
California Dept. Fish & Wildlife  
1416 9th Street, 12th Floor  
Sacramento, CA 95814

Dear Director Bonham:

The Ballona Wetlands Ecological Reserve is a fresh water seasonal wetland. Please prepare an Alternative in the Ballona Wetlands Ecological Reserve Draft Environmental Impact Report for what it has been for over 400 years. It is one of the last large fresh water wetlands on our Southern California Coast.

Also please extend the time for public comments on this Draft EIR/EIS to March 24, 2018. It is 8,000 pages total and the public needs this time to properly read, analyze, and make comments.

Thank you,

RECEIVED

FEB 07 2018

DFW Director's Office

F6-2

F6-3



## Letter F6: Form Comment Card 2

- F6-1 See General Response 8, *Public Participation* (Final EIR Section 2.2.8.1), regarding CDFW's decision not to further extend the comment period beyond 133 days.
- F6-2 See General Response 3, *Alternatives* (Final EIR Section 2.2.3.1), which addresses requests for analysis of a "freshwater alternative."
- F6-3 See General Response 8, *Public Participation* (Final EIR Section 2.2.8.1), regarding CDFW's decision not to further extend the comment period beyond 133 days and why this period of time provided sufficient opportunity to provide input.

Janna Scott

---

**Subject:** FW: Restore Ballona Wetlands Without Harming Freshwater Species

-----Original Message-----

From: In Defense of Animals [mailto:takeaction@idausa.org]  
Sent: Friday, December 22, 2017 11:49 AM  
To: Wildlife DIRECTOR <DIRECTOR@wildlife.ca.gov>  
Subject: Restore Ballona Wetlands Without Harming Freshwater Species

Dec 22, 2017

Mr. Charles Bonham  
CA

Dear Mr. Bonham,

On behalf of In Defense of Animals, an international animal protection nonprofit with over 250,000 supporters, I urge you to consider a freshwater seasonal wetland alternative for the Ballona Wetlands Restoration Project. I am extremely concerned about the groundwater diversion from the Ballona wetlands and potential saltwater flooding of the area, which will destroy endangered plants and animals living there. I implore you to conduct a hydrology study to assess the damage already done to this sensitive ecosystem before moving forward. I support a restoration project that does not harm the existing Ballona Wetlands.

F7-1

I request the current state Draft Environmental Impact Report and federal Environmental Impact Statement be rescinded, corrected for its many false and misleading and incorrect statements, and include a freshwater seasonal wetland alternative and to then be re-circulated for informed decision making.

F7-2

Ballona's unique freshwater aspects deserve to be protected and restored from the current drainage of rainwaters by the California Department of Fish and Wildlife's (CDFW) unpermitted drains, which are a Violation of the Coastal Act as cited by the California Coastal Commission.

F7-3

Playa Vista's ongoing massive dewatering pumping and diversion of groundwaters into the Santa Monica Bay and/or into the sanitary sewers must not be allowed to continue. CDFW must include this dewatering in an unconflicted hydrological study of Ballona, which will determine what harm has accrued and how to mitigate that damage and restore the freshwaters to Ballona. CDFW should not be engaged in misconduct by promoting the special and conflicted interests of Playa Capital LLC/ Brookstone the developers of Playa Vista as they have been.

F7-4

F7-5

This is your golden opportunity to return and restore the fresh groundwaters to Ballona Wetlands, which is already a mitigation requirement for the Playa Vista development project.

Sincerely,

Mr. Ed Vieira  
63 Russek Dr  
Staten Island, NY 10312-1627  
(718) 555-5555  
edvjr63@aol.com



## Letter F7: In Defense of Animals

F7-1 See General Response 3, *Alternatives* (Final EIR Section 2.2.3.1), which addresses requests for consideration of a “freshwater alternative.” The stated concern about groundwater diversion is acknowledged and is now part of the record of information that will be considered as part of CDFW’s decision-making process. Neither the Project nor Alternative 2 or Alternative 3 proposes a substantial diversion of groundwater. See, e.g., Draft EIS/EIR Section 2.2.2.2 (noting that the subgrade in Area B is relatively close to groundwater and that over-excavation to a depth of 2 feet below grade is expected to be required for Alternative 1).

The stated concern about saltwater flooding of the area also is acknowledged and is now part of the record of information that will be considered as part of CDFW’s decision-making process. The potential for the Project and alternatives to increase the extent of tidal inundation and infiltration of salt water into the groundwater table, resulting in the inland advancement of sea water intrusion, is analyzed in Draft EIS/EIR Section 3.9.6, *Direct and Indirect Impacts to Hydrology and Water Quality*. For example, the analysis of Impact 1-WQ-2 concludes that the Project would cause a less-than-significant impact in this regard. The same is true for Alternative 2 (see analysis of Impact 2-WQ-2) and for Alternative 3 (see analysis of Impact 3-WQ-2).

The requested study of “damage” to the ecosystem to current (baseline) conditions has not been prepared. Draft EIS/EIR Section 3.9.2.2 describes the Environmental Setting for the analysis of potential impacts to Hydrology and Water Quality. The comment does not suggest that the description of the environmental setting is inaccurate or inadequate and the requested study would not further inform decision makers about the impacts of the project on the existing documented baseline conditions described in Draft EIS/EIR Section 3.9.2.2.

F7-2 See General Response 7, *Request for Recirculation* (Final EIR Section 2.2.7), which responds to requests for recirculation.

F7-3 Protection of existing freshwater resources, including the inflow of fresh groundwater into South Area B from and then along the base of the Westchester bluff slope and West Area B along the bluff of Vista del Mar, are a part of the proposed restoration alternatives. Regarding existing drains at the Ballona Reserve, as directed by California Coastal Commission CDP No. 5-17-0253,<sup>51</sup> see General Response 4, *Drains* (Final EIR Section 2.2.4), which addresses multiple comments received about these drains. Both risers have been sealed watertight, rendering them useless as drainage features. Plans for complete removal of these two drains and associated infrastructure are part of the Project and Alternative 2. A study found the risers have had a minimal impact, if any, on the hydrology within the Ballona Reserve.<sup>52</sup> Specifically, a hydrological analysis concluded that the risers “have not affected the

<sup>51</sup> California Coastal Commission, 2017. CDP 5-17-0253 (CA Dept. of Fish and Wildlife). December 14, 2017. Available online: <https://documents.coastal.ca.gov/reports/2017/12/th10c/th10c-12-2017-exhibits.pdf>.

<sup>52</sup> PSOMAS, 2017. Hydrologic Analysis for Freshwater March Outlet Drain Risers. September 27, 2017.



hydrology of the area in any appreciable way” and that in a 100-year storm event approximately 53 cubic feet of the 122,600 cubic feet of water that would collect near the risers would enter them (i.e., 0.04 percent of the rainfall enter the risers). Moreover, CDFW is unaware of, nor was presented, any evidence contrary to the hydrological analysis.

- F7-4 Playa Capital LLC and CDFW are separate entities. Playa Capital LLC activities are not included in the Project or in Alternative 2 or 3 (see Draft EIS/EIR Chapter 2). The activities at issue in this comment occur outside the Ballona Reserve and are not within the Project Site. To the extent that Playa Capital LLC’s activities may have affected current conditions in the project area, they are reflected in Draft EIS/EIR Section 3.9.2.2’s description of the environmental setting for Hydrology and Water Quality. Any ongoing impacts of these activities are considered as part of the cumulative effects analysis in Draft EIS/EIR Section 3.9.7, *Cumulative Impacts to Hydrology and Water Quality*. Regarding the request for a hydrological study, see Response F1-7.
- F7-5 See General Response 1, *Agency and Other Involvement* (Final EIR Section 2.2.1), which addresses suggested conflicts of interest involving Playa Capital LLC.



*Villa Marina Council*

Bob Herrera, President  
13216-A Admiral Ave.  
Marina del Rey, CA 90292  
presnow.inc@gmail.com

January 17, 2018

Mr. Richard Brody  
California Department of Fish and Wildlife  
c/o ESA (jas)  
550 Kearny Street, Suite 800  
San Francisco, CA 94108

Dear Mr. Brody:

On behalf of the Villa Marina neighborhood, we would like to submit the following comments on the Ballona Wetlands Restoration Project Draft EIS/EIR.

Villa Marina is a community of 685 townhomes within 18 HOAs directly adjacent to Area C North. We have seen many changes to the Marina del Rey area since our neighborhood was built in 1966, and are grateful that the Ballona Wetlands Ecological Reserve has endured literally in our back yard during this time. But we have also seen the gradual ongoing deterioration of Area C North over the years. We support a plan that restores degraded areas and provides a habitat where native plant, bird and animal species can survive and thrive, as well as affords an opportunity for the public to enjoy the wetlands in an unobtrusive way. While we all agree that Area C North is long overdue for some much-needed rehabilitation, we feel that certain aspects of the Draft EIS/EIR could have a potentially negative impact on our neighborhood. We have identified three main areas of concern that directly affect Villa Marina:

F8-1

***Excavation of soil from Area A and relocation to Area C North***

The Draft EIS/EIR states that under Alternatives 1 and 2, anywhere from 13 to 30 feet of soil above existing grade would be added to Area C North. This is excessive in our view, and would literally tower over our community of two story townhomes. **We strongly oppose any alternative that calls for the dumping of large quantities of soil in Area C North.** Our concerns include:

F8-2

- **Aesthetics.** Our current view of Area C North from our neighborhood is that of an open field with views of Playa Vista, the Playa Bluffs and the Marina. The amount of soil described in the excavation plan of Alternatives 1 and 2 would transform that to a view of the side of a dirt mountain – even from the second story of our homes. In addition, we are concerned that the excavation and grading process will produce an inordinate amount of dust that, given the prevailing winds, would blow directly into our neighborhood.
- **Destruction of the current ecosystem.** We are concerned that the amount of soil placed on top of the current habitat would destroy the important existing ecological network within Area C North. This will take years to regenerate and does not fit our definition of “restoration.” There does not appear to be a logical reason for the relocation of this soil other than the need for a place to dump the excess fill excavated from Area A.
- **Displacement of wildlife.** We are concerned that once their habitat disappears, animals from Area C North will be driven into our neighborhood. This will have a negative impact not only on the animals forced to abandon

F8-3

F8-4

F8-5

F8-6

the area, but on our residents, many with small children and pets, having to confront frightened wildlife near our homes or deal with the destruction of gardens and landscaping on our property caused by these animals.

- Stormwater drainage. We are unable to determine from the current plan how stormwater will drain or where it will be collected after rainstorms. Many of our residents already experience problems with groundwater seepage in their garages requiring sump pumps and French drains to keep their property dry. We are concerned that the plan will exacerbate these issues. We also worry that in the event of a significant rainstorm, the excavated soil could produce mudflows that would damage our property. **We would like to see a more thorough examination of the impact to our property of the proposed additional fill and assurances that this will not negatively affect us.**
- Existing retaining wall between Villa Marina and Area C North. Our properties currently share a low cinderblock retaining wall. It is unclear whether any of the alternatives call for plans to remove, replace or disturb this wall – or whether any other kind of fencing is planned. We would like more information on this issue.
- Project delays. While the initial excavation and relocation of the soil will occur early in the project, the grading and actual restoration is scheduled for much later. We are concerned about long delays that could lead to large amounts of dust generated from the dirt pile or changes in priorities or funding that would leave Area C North unfinished.

F8-6  
cont.

F8-7

F8-8

F8-9

#### **Public Access Plan**

The Draft EIS/EIR shows several public access entrances around the perimeter of Area C North, including one at the current dead end at La Villa Marina. **We strongly oppose any public access entrance located within the Villa Marina neighborhood.** Our concerns include:

F8-10

- Traffic/Parking/Noise/Trash. We are concerned that the public access entrance proposed for the end of La Villa Marina will bring additional traffic to our neighborhood, which is already inundated with traffic, noise and trash from customers and employees of the nearby shopping center, court house and hospital. We have often found these individuals to show a general lack of respect for our neighborhood, and the additional traffic associated with this entrance would make this situation even worse. There are currently four other proposed public access entrances to this small area in the plan. Given this, we feel the La Villa Marina entrance is unnecessary.
- Security. The current proposed hours of the Reserve are from dawn to dusk. It is unclear whether the entrances will have secured gates that will be opened and closed daily, or whether these entrances will be lighted. We are in favor of secured entrances but are opposed to bright lights that would shine into our neighborhood. We would like more information on this issue.
- Homeless encampments. Historically, these encampments have been pervasive in Area C North and bring with them crime, drug use and trash. Authorities are often slow to remove them and they quickly reestablish. The plan states that should these encampments appear, CDFW will address these activities “as they have in the past” (pg. 2-158). This is inadequate in our view. **We would like to see a more proactive and robust plan for preventing transients from locating in Area C North and more timely removal of encampments.**
- Dogs. The plan does not state whether dogs will be allowed on the pedestrian trails within Area C North. If dogs are allowed, how will clean-up be enforced? Will pet waste stations be provided? We would like more information on this issue.

F8-11

F8-12

F8-13

F8-14

F8-15

#### **Soil Transport/Construction Route**

The Draft EIS/EIR refers to a number of different potential methods for transporting soil from Area A to Area C North, including the use of existing roadways. The specific routes are not clearly defined, however Fiji Way is mentioned. Our concerns include:



- Use of existing roadways within Villa Marina. A number of possible routes are mentioned within the Draft EIS/EIR including "Fiji Way and crossing Lincoln Boulevard from Area A to North Area C" (Table 2-11, pg. 2-122). Villa Marina is a pedestrian and bike friendly neighborhood. Our community includes families with small children and pets, as well as a large population of elderly residents. Any use of the streets within our neighborhood for soil transport or construction would create a tremendous disruption to our residents in terms of traffic, safety, noise and physical damage to our streets. **We strongly oppose any route for soil transport or construction/grading that involves use of the streets within the Villa Marina neighborhood (Fiji Way and/or La Villa Marina).**
- Disruption of the Fiji Barrier. Prior to the construction of the Fiji Barrier (located on Fiji Way just east of Lincoln Blvd), the streets within Villa Marina served as a non-stop thoroughfare for speeding motorists between Lincoln Blvd., Mindanao Way and the 90 freeway. After years of discussion with the City of Los Angeles, and as a Condition of Occupancy for the Aqua Marina del Rey apartments, the barrier was constructed, greatly increasing the safety of our neighborhood. Any disruption or removal of the Fiji Barrier would be detrimental to the safety of our neighborhood and would be unacceptable. **We strongly oppose any method or route for soil transport or construction/grading that involves disruption of the Fiji Barrier.**

F8-15  
cont.

F8-16

F8-17

As affected stakeholders in this process, we hope you will give serious consideration to our concerns. For the reasons mentioned above, we are opposed to Alternatives 1 and 2. Based on our current understanding of the Draft EIS/EIR, Alternative 3 best reflects our desire for a balance between restoration and access, notwithstanding our comments above regarding public access. However, we would welcome the opportunity to meet with the Lead Agencies to address any potential misconceptions or discuss any possible modifications to the various alternatives.

Thank you for the opportunity to provide comments on this important project.

Sincerely,



Bob Herrera  
President

310-785-5427

January 24, 2018

Mr. Richard Brody  
California Department of Fish and Wildlife  
c/o ESA (jas)  
550 Kearny Street, Suite 800  
San Francisco, CA 94108

Dear Mr. Brody:

I am an owner of a condominium in Villa San Remo, located on Fiji Way in Marina Del Rey. I would like to submit the following comments on the Ballona Wetlands Restoration Project Draft EIS/EIR.

Our Villa borders directly on Area C North and I feel that that certain aspects of the Draft EIS/EIR could have a substantial, negative impact on our homeowners and the surrounding neighborhood. I believe that there are three main areas of concern that directly affect Villa San Remo and the surrounding neighborhood:

***Excavation of soil from Area A and relocation to Area C North***

The Draft EIS/EIR states that under Alternatives 1 and 2, anywhere from 13 to 30 feet of soil above existing grade would be added to Area C North, a parcel that directly borders our Villa on the South. This is excessive in my view, and would literally tower over our community of two story townhomes. **I strongly oppose any alternative that calls for the dumping of large quantities of soil in Area C North.**

This restoration project is presumably for the general benefit of all the citizens of the State of California and/or for the general benefit of all the citizens of the City and County of Los Angeles. Simple concerns of fairness would dictate that those receiving the benefits of the project should also bear the burdens and expenses of the project. **Under Alternatives 1 and 2, the dumping of a very large quantity of soil on Area C North will impose a substantial burden, not generally on the Citizens of the State or of the City and County of Los Angeles, but disproportionately on the habitat of Area C North and the residents of the neighborhood in and around Area C North.** This disproportionate burden on Area C North and the surrounding neighborhood can easily be remedied by taking the soil removed from Areas A and B and removing it off site. The cost of removing the soil off site should be borne by the State and/or the City and County of Los Angeles because their citizens are the general beneficiaries of the proposed restoration.

F8-18

F8-19

More specifically, my concerns include:

- **Aesthetics.** The current view of Area C North from our Villa is that of an open field with views of Playa Vista, the Playa Bluffs and the Marina. The amount of soil described in the excavation plan of Alternatives 1 and 2 would transform that to a view of the side of a dirt mountain – even from the second story of our homes. In addition, I am concerned that the excavation and grading process will produce an inordinate amount of dust that, given the prevailing winds, would blow directly into our homes and common space.

- Destruction of the current ecosystem. I am concerned that the amount of soil placed on top of the current habitat would destroy the important existing ecological network within Area C North. This will take years to regenerate and does not fit my definition of "restoration." There does not appear to be a logical reason for the relocation of this soil other than the need for a place to dump the excess fill excavated from Area A.
- Displacement of wildlife. I am concerned that once their habitat disappears, animals from Area C North will be driven into our common area and our neighborhood. This will have a negative impact not only on the animals forced to abandon the area, but on me and the residents of our neighborhood, many with small children and pets. We may have to confront frightened wildlife near our homes or deal with the destruction of gardens and landscaping on our property caused by these animals.
- Stormwater drainage. I am unable to determine from the current plan how stormwater will drain or where it will be collected after rainstorms. I worry that in the event of a significant rainstorm, the excavated soil could produce mudflows that would damage my property. **I would like to see a more thorough examination of the impact to my property of the proposed additional fill and assurances that this will not negatively affect me, my property or the surrounding neighborhood.**
- Existing retaining wall between Villa San Remo and Area C North. Our Villa currently shares a low cinderblock retaining wall with Area C North. It is unclear whether any of the alternatives call for plans to remove, replace or disturb this wall – or whether any other kind of fencing is planned. We would like more information on this issue.
- Project delays. While I understand that the initial excavation and relocation of the soil will occur early in the project, the grading and actual restoration is scheduled for much later. I am concerned about long delays that could lead to large amounts of dust generated from the dirt pile or changes in priorities or funding that would leave Area C North unfinished.

#### **Public Access Plan**

The Draft EIS/EIR shows several public access entrances around the perimeter of Area C North, including one at the current dead end at La Villa Marina. **I strongly oppose any public access entrance located within the Villa Marina neighborhood.** My concerns include:

- Traffic/Parking/Noise/Trash. I am concerned that the public access entrance proposed for the end of La Villa Marina will bring additional traffic to our neighborhood, which is already inundated with traffic, noise and trash from customers and employees of the nearby shopping center, court house and hospital. There are currently four other proposed public access entrances to this small area in the plan. Given this, I feel the La Villa Marina entrance is unnecessary.
- Security. The current proposed hours of the Reserve are from dawn to dusk. It is unclear whether the entrances will have secured gates that will be opened and closed daily, or whether these entrances will be lighted. I am in favor of secured entrances but I am opposed to bright lights that would shine into my Villa or our neighborhood. I would like more information on this issue.
- Homeless encampments. Historically, these encampments have been pervasive in Area C North and bring with them crime, drug use and trash. Authorities are often slow to remove them and they quickly reestablish. The plan states that should these encampments appear, CDFW will address these activities "as they have in the past" (pg. 2-158). This is inadequate in my view. I

would like to see a more proactive and robust plan for preventing transients from locating in Area C North and more timely removal of encampments.

- Dogs. The plan does not state whether dogs will be allowed on the pedestrian trails within Area C North. If dogs are allowed, how will clean-up be enforced? Will pet waste stations be provided? I would like more information on this issue.

***Soil Transport/Construction Route***

The Draft EIS/EIR refers to a number of different potential methods for transporting soil from Area A to Area C North, including the use of existing roadways. The specific routes are not clearly defined, however Fiji Way is mentioned. My concerns include:

- Use of existing roadways within Villa Marina. A number of possible routes are mentioned within the Draft EIS/EIR including "Fiji Way and crossing Lincoln Boulevard from Area A to North Area C" (Table 2-11, pg. 2-122). Villa Marina is a pedestrian and bike friendly neighborhood. Our community includes families with small children and pets, as well as a large population of elderly residents. Any use of the streets within our neighborhood for soil transport or construction would create a tremendous disruption to our residents in terms of traffic, safety, noise and physical damage to our streets. **I strongly oppose any route for soil transport or construction/grading that involves use of the streets within the Villa Marina neighborhood (Fiji Way and/or La Villa Marina).**
- Disruption of the Fiji Barrier. Prior to the construction of the Fiji Barrier (located on Fiji Way just east of Lincoln Blvd), the streets within Villa Marina served as a non-stop thoroughfare for speeding motorist between Lincoln Blvd., Mindanao Way and the 90 freeway. After years of discussion with the City of Los Angeles, and as a Condition of Occupancy for the Aqua Marina del Rey apartments, the barrier was constructed, greatly increasing the safety of our neighborhood. Any disruption or removal of the Fiji Barrier would be detrimental to the safety of our neighborhood and would be unacceptable. **I strongly oppose any method or route for soil transport or construction/grading that involves disruption of the Fiji Barrier.**

As an affected stakeholder in this process, I hope you will give serious consideration to my concerns. For the reasons mentioned above, I am opposed to Alternatives 1 and 2 and strongly prefer Alternative 3.

Thank you for the opportunity to provide comments on this important project.

Sincerely,



Owner Villa San Remo



**From:** [Barbara Pessis](#)  
**To:** [Wildlife Ballona Wetlands Ecological Reserve EIR](#)  
**Subject:** Ballona Wetlands Restoration Project Draft EIS/EIR.  
**Date:** Tuesday, January 23, 2018 6:12:00 PM

January 23, 2018

Mr. Richard Brody  
 California Department of Fish and Wildlife  
 c/o ESA (jas)  
 550 Kearny Street, Suite 800  
 San Francisco, CA 94108

Dear Mr. Brody:

I live in a townhome that abuts Area C. I'm hopeful you've seen many forms of this letter so I have placed my own comments in this first paragraph – you're welcome. I submit the following comments on the Ballona Wetlands Restoration Project Draft EIS/EIR. On 8/29/18 you telephoned me to reply to my email about brush clearance in Area C and that subject was completed for the time being. You informed me then that the Argonaut would be running information on an Environmental Impact Report available to the public regarding Area C and the entire area from C west to Lincoln and that the EIR will address the State's request to make the area more functional by clearing weeds and making it more functional for the wildlife species and habitat as well as for public access for walkways which they hope will discourage homeless people. You assured me no buildings were requested, just weeding and walkways for the above reasons, and reiterated that the EIR will address only its public restoration for functionality for the species, both plant and animal. I reported our conversation to our Villa Marina community in our monthly newspaper. Because Area C is the view from my back windows and garage, I am very concerned with safety and the natural environment. I need to be shown more studies on putting in walkways and increase in crime, as well as trespassing (I can imagine people visiting the Area, parking in our neighborhood and using MY alley to jump the low brick wall separating me from Area C). Regarding the eco system, clearly walkways will destroy the natural environment – we cannot have both walkways and restoration of the eco systems but functionality through compromise is possible depending on the design for the walkways. If things like this haven't been considered yet, then clearly more consideration is needed. This said, I stand with my community and the letter sent on our behalf previously.

F8-20

F8-21

F8-22

Villa Marina is a community of 685 townhomes within 18 HOAs directly adjacent to Area C North. We have seen many changes to the Marina del Rey area since our neighborhood was built in 1966, and are grateful that the Ballona Wetlands Ecological Reserve has endured literally in our back yard during this time. But we have also seen the gradual ongoing deterioration of Area C North over the years. We support a plan that restores degraded areas and provides a habitat where native plant, bird and animal species can survive and thrive, as well as affords an opportunity for the public to enjoy the wetlands in an unobtrusive way. While we all agree that Area C North is long overdue for some much-needed rehabilitation, we feel that certain aspects of the Draft EIS/EIR could have a potentially negative impact on our neighborhood. We have identified three main areas of concern that directly affect Villa Marina:



***Excavation of soil from Area A and relocation to Area C North***

The Draft EIS/EIR states that under Alternatives 1 and 2, anywhere from 13 to 30 feet of soil above existing grade would be added to Area C North. This is excessive in our view, and would literally tower over our community of two story townhomes. **We strongly oppose any alternative that calls for the dumping of large quantities of soil in Area C North.** Our concerns include:

- Aesthetics. Our current view of Area C North from our neighborhood is that of an open field with views of Playa Vista, the Playa Bluffs and the Marina. The amount of soil described in the excavation plan of Alternatives 1 and 2 would transform that to a view of the side of a dirt mountain – even from the second story of our homes. In addition, we are concerned that the excavation and grading process will produce an inordinate amount of dust that, given the prevailing winds, would blow directly into our neighborhood.
- Destruction of the current ecosystem. We are concerned that the amount of soil placed on top of the current habitat would destroy the important existing ecological network within Area C North. This will take years to regenerate and does not fit our definition of “restoration.” There does not appear to be a logical reason for the relocation of this soil other than the need for a place to dump the excess fill excavated from Area A.
- Displacement of wildlife. We are concerned that once their habitat disappears, animals from Area C North will be driven into our neighborhood. This will have a negative impact not only on the animals forced to abandon the area, but on our residents, many with small children and pets, having to confront frightened wildlife near our homes or deal with the destruction of gardens and landscaping on our property caused by these animals.
- Stormwater drainage. We are unable to determine from the current plan how stormwater will drain or where it will be collected after rainstorms. Many of our residents already experience problems with groundwater seepage in their garages requiring sump pumps and French drains to keep their property dry. We are concerned that the plan will exacerbate these issues. We also worry that in the event of a significant rainstorm, the excavated soil could produce mudflows that would damage our property. **We would like to see a more thorough examination of the impact to our property of the proposed additional fill and assurances that this will not negatively affect us.**
- Existing retaining wall between Villa Marina and Area C North. Our properties currently share a low cinderblock retaining wall. It is unclear whether any of the alternatives call for plans to remove, replace or disturb this wall – or whether any other kind of fencing is planned. We would like more information on this issue.
- Project delays. While the initial excavation and relocation of the soil will occur early in the project, the grading and actual restoration is scheduled for much later. We are concerned about long delays that could lead to large amounts of dust generated from the dirt pile or changes in priorities or funding that would leave Area C North unfinished.

***Public Access Plan***

The Draft EIS/EIR shows several public access entrances around the perimeter of Area C North, including one at the current dead end at La Villa Marina. **We strongly oppose any public access entrance located within the Villa Marina neighborhood.** Our concerns include:



- Traffic/Parking/Noise/Trash. We are concerned that the public access entrance proposed for the end of La Villa Marina will bring additional traffic to our neighborhood, which is already inundated with traffic, noise and trash from customers and employees of the nearby shopping center, court house and hospital. We have often found these individuals to show a general lack of respect for our neighborhood, and the additional traffic associated with this entrance would make this situation even worse. There are currently four other proposed public access entrances to this small area in the plan. Given this, we feel the La Villa Marina entrance is unnecessary.
- Security. The current proposed hours of the Reserve are from dawn to dusk. It is unclear whether the entrances will have secured gates that will be opened and closed daily, or whether these entrances will be lighted. We are in favor of secured entrances but are opposed to bright lights that would shine into our neighborhood. We would like more information on this issue.
- Homeless encampments. Historically, these encampments have been pervasive in Area C North and bring with them crime, drug use and trash. Authorities are often slow to remove them and they quickly reestablish. The plan states that should these encampments appear, CDFW will address these activities “as they have in the past” (pg. 2-158). This is inadequate in our view. **We would like to see a more proactive and robust plan for preventing transients from locating in Area C North and more timely removal of encampments.**
- Dogs. The plan does not state whether dogs will be allowed on the pedestrian trails within Area C North. If dogs are allowed, how will clean-up be enforced? Will pet waste stations be provided? We would like more information on this issue.

### ***Soil Transport/Construction Route***

The Draft EIS/EIR refers to a number of different potential methods for transporting soil from Area A to Area C North, including the use of existing roadways. The specific routes are not clearly defined, however Fiji Way is mentioned. Our concerns include:

- Use of existing roadways within Villa Marina. A number of possible routes are mentioned within the Draft EIS/EIR including “Fiji Way and crossing Lincoln Boulevard from Area A to North Area C” (Table 2-11, pg. 2-122). Villa Marina is a pedestrian and bike friendly neighborhood. Our community includes families with small children and pets, as well as a large population of elderly residents. Any use of the streets within our neighborhood for soil transport or construction would create a tremendous disruption to our residents in terms of traffic, safety, noise and physical damage to our streets. **We strongly oppose any route for soil transport or construction/grading that involves use of the streets within the Villa Marina neighborhood (Fiji Way and/or La Villa Marina).**
- Disruption of the Fiji Barrier. Prior to the construction of the Fiji Barrier (located on Fiji Way just east of Lincoln Blvd), the streets within Villa Marina served as a non-stop thoroughfare for speeding motorist between Lincoln Blvd., Mindanao Way and the 90 freeway. After years of discussion with the City of Los Angeles, and as a Condition of Occupancy for the Aqua Marina del Rey apartments, the barrier was constructed, greatly increasing the safety of our neighborhood. Any disruption or removal of the Fiji Barrier would be detrimental to the safety of our neighborhood and would be unacceptable. **We strongly oppose any method or route for soil transport or construction/grading that involves disruption of the Fiji**

**Barrier.**

As affected stakeholders in this process, we hope you will give serious consideration to our concerns. For the reasons mentioned above, we are opposed to Alternatives 1 and 2. Based on our current understanding of the Draft EIS/EIR, Alternative 3 best reflects our desire for a balance between restoration and access, notwithstanding our comments above regarding public access. However, we would welcome the opportunity to meet with the Lead Agencies to address any potential misconceptions or discuss any possible modifications to the various alternatives.

Thank you for the opportunity to provide comments on this important project.

Sincerely,  
Barbara Pessis  
13228 Fiji Way #F  
MdR, CA 90292  
Ph: (310) 305-8882  
barbarap22@verizon.net



January 27, 2018

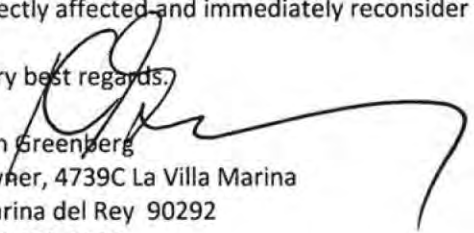
Mr. Richard Brody  
California Department of Fish and Wildlife  
c/o ESA (jas)  
550 Kearny Street, Suite 800  
San Francisco, CA 94108

Dear Mr. Brody:

As an owner in Marina del Rey's Villa Marina neighborhood for more than 45 years, I join with others in our community in submitting the comments below on the Ballona Wetlands Restoration Project Draft EIS/EIR. The proposed actions would be devastating to a great many residents and owners, in terms of both aesthetics and property values. As described, these changes are ill-conceived, ill-timed and completely unnecessary. It is imperative that the Department heed the comments of those most directly affected and immediately reconsider the proposed actions.

F8-23

Very best regards,

  
Ken Greenberg  
Owner, 4739C La Villa Marina  
Marina del Rey 90292  
818-451-9027

Residence address:  
2734 Hollyridge Dr.  
Los Angeles 90068

January 17, 2018

Mr. Richard Brody  
California Department of Fish and Wildlife  
c/o ESA (jas)  
550 Kearny Street, Suite 800  
San Francisco, CA 94108

Dear Mr. Brody:

*On behalf of the Villa Marina neighborhood, we would like to submit the following comments on the Ballona Wetlands Restoration Project Draft EIS/EIR.*

*Villa Marina is a community of 685 townhomes within 18 HOAs directly adjacent to Area C North. We have seen many changes to the Marina del Rey area since our neighborhood was built in 1966, and are grateful that the Ballona Wetlands Ecological Reserve has endured literally in our back yard during this time. But we have also seen the gradual ongoing deterioration of Area C North over the years. We support a plan that restores degraded areas and provides a habitat where native plant, bird and animal*

species can survive and thrive, as well as affords an opportunity for the public to enjoy the wetlands in an unobtrusive way. While we all agree that Area C North is long overdue for some much-needed rehabilitation, we feel that certain aspects of the Draft EIS/EIR could have a potentially negative impact on our neighborhood. We have identified three main areas of concern that directly affect Villa Marina:

**Excavation of soil from Area A and relocation to Area C North**

The Draft EIS/EIR states that under Alternatives 1 and 2, anywhere from 13 to 30 feet of soil above existing grade would be added to Area C North. This is excessive in our view, and would literally tower over our community of two story townhomes. **We strongly oppose any alternative that calls for the dumping of large quantities of soil in Area C North.** Our concerns include:

- **Aesthetics.** Our current view of Area C North from our neighborhood is that of an open field with views of Playa Vista, the Playa Bluffs and the Marina. The amount of soil described in the excavation plan of Alternatives 1 and 2 would transform that to a view of the side of a dirt mountain – even from the second story of our homes. In addition, we are concerned that the excavation and grading process will produce an inordinate amount of dust that, given the prevailing winds, would blow directly into our neighborhood.
- **Destruction of the current ecosystem.** We are concerned that the amount of soil placed on top of the current habitat would destroy the important existing ecological network within Area C North. This will take years to regenerate and does not fit our definition of “restoration.” There does not appear to be a logical reason for the relocation of this soil other than the need for a place to dump the excess fill excavated from Area A.
- **Displacement of wildlife.** We are concerned that once their habitat disappears, animals from Area C North will be driven into our neighborhood. This will have a negative impact not only on the animals forced to abandon the area, but on our residents, many with small children and pets, having to confront frightened wildlife near our homes or deal with the destruction of gardens and landscaping on our property caused by these animals.
- **Stormwater drainage.** We are unable to determine from the current plan how stormwater will drain or where it will be collected after rainstorms. Many of our residents already experience problems with groundwater seepage in their garages requiring sump pumps and French drains to keep their property dry. We are concerned that the plan will exacerbate these issues. We also worry that in the event of a significant rainstorm, the excavated soil could produce mudflows that would damage our property. **We would like to see a more thorough examination of the impact to our property of the proposed additional fill and assurances that this will not negatively affect us.**
- **Existing retaining wall between Villa Marina and Area C North.** Our properties currently share a low cinderblock retaining wall. It is unclear whether any of the alternatives call for plans to remove, replace or disturb this wall – or whether any other kind of fencing is planned. We would like more information on this issue.
- **Project delays.** While the initial excavation and relocation of the soil will occur early in the project, the grading and actual restoration is scheduled for much later. We are concerned about long delays that could lead to large amounts of dust generated from the dirt pile or changes in priorities or funding that would leave Area C North unfinished.



**Public Access Plan**

The Draft EIS/EIR shows several public access entrances around the perimeter of Area C North, including one at the current dead end at La Villa Marina. **We strongly oppose any public access entrance located within the Villa Marina neighborhood.** Our concerns include:

- Traffic/Parking/Noise/Trash. We are concerned that the public access entrance proposed for the end of La Villa Marina will bring additional traffic to our neighborhood, which is already inundated with traffic, noise and trash from customers and employees of the nearby shopping center, court house and hospital. We have often found these individuals to show a general lack of respect for our neighborhood, and the additional traffic associated with this entrance would make this situation even worse. There are currently four other proposed public access entrances to this small area in the plan. Given this, we feel the La Villa Marina entrance is unnecessary.
- Security. The current proposed hours of the Reserve are from dawn to dusk. It is unclear whether the entrances will have secured gates that will be opened and closed daily, or whether these entrances will be lighted. We are in favor of secured entrances but are opposed to bright lights that would shine into our neighborhood. We would like more information on this issue.
- Homeless encampments. Historically, these encampments have been pervasive in Area C North and bring with them crime, drug use and trash. Authorities are often slow to remove them and they quickly reestablish. The plan states that should these encampments appear, CDFW will address these activities "as they have in the past" (pg. 2-158). This is inadequate in our view. **We would like to see a more proactive and robust plan for preventing transients from locating in Area C North and more timely removal of encampments.**
- Dogs. The plan does not state whether dogs will be allowed on the pedestrian trails within Area C North. If dogs are allowed, how will clean-up be enforced? Will pet waste stations be provided? We would like more information on this issue.

**Soil Transport/Construction Route**

The Draft EIS/EIR refers to a number of different potential methods for transporting soil from Area A to Area C North, including the use of existing roadways. The specific routes are not clearly defined, however Fiji Way is mentioned. Our concerns include:

- Use of existing roadways within Villa Marina. A number of possible routes are mentioned within the Draft EIS/EIR including "Fiji Way and crossing Lincoln Boulevard from Area A to North Area C" (Table 2-11, pg. 2-122). Villa Marina is a pedestrian and bike friendly neighborhood. Our community includes families with small children and pets, as well as a large population of elderly residents. Any use of the streets within our neighborhood for soil transport or construction would create a tremendous disruption to our residents in terms of traffic, safety, noise and physical damage to our streets. **We strongly oppose any route for soil transport or construction/grading that involves use of the streets within the Villa Marina neighborhood (Fiji Way and/or La Villa Marina).**
- Disruption of the Fiji Barrier. Prior to the construction of the Fiji Barrier (located on Fiji Way just east of Lincoln Blvd), the streets within Villa Marina served as a non-stop thoroughfare for speeding motorists between Lincoln Blvd., Mindanao Way and the 90 freeway. After years of discussion with the City of Los Angeles, and as a Condition of Occupancy for the Aqua Marina del Rey apartments, the barrier was constructed, greatly increasing the safety of our neighborhood. Any disruption or removal of the Fiji Barrier would be detrimental to the safety of our

*neighborhood and would be unacceptable. **We strongly oppose any method or route for soil transport or construction/grading that involves disruption of the Fiji Barrier.***

*As affected stakeholders in this process, we hope you will give serious consideration to our concerns. For the reasons mentioned above, we are opposed to Alternatives 1 and 2. Based on our current understanding of the Draft EIS/EIR, Alternative 3 best reflects our desire for a balance between restoration and access, notwithstanding our comments above regarding public access. However, we would welcome the opportunity to meet with the Lead Agencies to address any potential misconceptions or discuss any possible modifications to the various alternatives.*

*Thank you for the opportunity to provide comments on this important project.*



January 17, 2018

Mr. Richard Brody  
California Department of Fish and Wildlife  
c/o ESA (jas)  
550 Kearny Street, Suite 800  
San Francisco, CA 94108

Dear Mr. Brody:

On behalf of the Villa Marina neighborhood, we would like to submit the following comments on the Ballona Wetlands Restoration Project Draft EIS/EIR.

Villa Marina is a community of 685 townhomes within 18 HOAs directly adjacent to Area C North. We have seen many changes to the Marina del Rey area since our neighborhood was built in 1966, and are grateful that the Ballona Wetlands Ecological Reserve has endured literally in our back yard during this time. But we have also seen the gradual ongoing deterioration of Area C North over the years. We support a plan that restores degraded areas and provides a habitat where native plant, bird and animal species can survive and thrive, as well as affords an opportunity for the public to enjoy the wetlands in an unobtrusive way. While we all agree that Area C North is long overdue for some much-needed rehabilitation, we feel that certain aspects of the Draft EIS/EIR could have a potentially negative impact on our neighborhood. We have identified three main areas of concern that directly affect Villa Marina:

***Excavation of soil from Area A and relocation to Area C North***

The Draft EIS/EIR states that under Alternatives 1 and 2, anywhere from 13 to 30 feet of soil above existing grade would be added to Area C North. This is excessive in our view, and would literally tower over our community of two story townhomes. **We strongly oppose any alternative that calls for the dumping of large quantities of soil in Area C North.** Our concerns include:

- **Aesthetics.** Our current view of Area C North from our neighborhood is that of an open field with views of Playa Vista, the Playa Bluffs and the Marina. The amount of soil described in the excavation plan of Alternatives 1 and 2 would transform that to a view of the side of a dirt mountain – even from the second story of our homes. In addition, we are concerned that the excavation and grading process will produce an inordinate amount of dust that, given the prevailing winds, would blow directly into our neighborhood.
- **Destruction of the current ecosystem.** We are concerned that the amount of soil placed on top of the current habitat would destroy the important existing ecological network within Area C North. This will take years to regenerate and does not fit our definition of “restoration.” There does not appear to be a logical reason for the relocation of this soil other than the need for a place to dump the excess fill excavated from Area A.
- **Displacement of wildlife.** We are concerned that once their habitat disappears, animals from Area C North will be driven into our neighborhood. This will have a negative impact not only on the animals forced to abandon the area, but on our residents, many with small children and pets, having to confront frightened wildlife near our homes or deal with the destruction of gardens and landscaping on our property caused by these animals.

- Stormwater drainage. We are unable to determine from the current plan how stormwater will drain or where it will be collected after rainstorms. Many of our residents already experience problems with groundwater seepage in their garages requiring sump pumps and French drains to keep their property dry. We are concerned that the plan will exacerbate these issues. We also worry that in the event of a significant rainstorm, the excavated soil could produce mudflows that would damage our property. **We would like to see a more thorough examination of the impact to our property of the proposed additional fill and assurances that this will not negatively affect us.**
- Existing retaining wall between Villa Marina and Area C North. Our properties currently share a low cinderblock retaining wall. It is unclear whether any of the alternatives call for plans to remove, replace or disturb this wall – or whether any other kind of fencing is planned. We would like more information on this issue.
- Project delays. While the initial excavation and relocation of the soil will occur early in the project, the grading and actual restoration is scheduled for much later. We are concerned about long delays that could lead to large amounts of dust generated from the dirt pile or changes in priorities or funding that would leave Area C North unfinished.

#### ***Public Access Plan***

The Draft EIS/EIR shows several public access entrances around the perimeter of Area C North, including one at the current dead end at La Villa Marina. **We strongly oppose any public access entrance located within the Villa Marina neighborhood.** Our concerns include:

- Traffic/Parking/Noise/Trash. We are concerned that the public access entrance proposed for the end of La Villa Marina will bring additional traffic to our neighborhood, which is already inundated with traffic, noise and trash from customers and employees of the nearby shopping center, court house and hospital. We have often found these individuals to show a general lack of respect for our neighborhood, and the additional traffic associated with this entrance would make this situation even worse. There are currently four other proposed public access entrances to this small area in the plan. Given this, we feel the La Villa Marina entrance is unnecessary.
- Security. The current proposed hours of the Reserve are from dawn to dusk. It is unclear whether the entrances will have secured gates that will be opened and closed daily, or whether these entrances will be lighted. We are in favor of secured entrances but are opposed to bright lights that would shine into our neighborhood. We would like more information on this issue.
- Homeless encampments. Historically, these encampments have been pervasive in Area C North and bring with them crime, drug use and trash. Authorities are often slow to remove them and they quickly reestablish. The plan states that should these encampments appear, CDFW will address these activities “as they have in the past” (pg. 2-158). This is inadequate in our view. **We would like to see a more proactive and robust plan for preventing transients from locating in Area C North and more timely removal of encampments.**
- Dogs. The plan does not state whether dogs will be allowed on the pedestrian trails within Area C North. If dogs are allowed, how will clean-up be enforced? Will pet waste stations be provided? We would like more information on this issue.

#### ***Soil Transport/Construction Route***

The Draft EIS/EIR refers to a number of different potential methods for transporting soil from Area A to Area C North, including the use of existing roadways. The specific routes are not clearly defined, however Fiji Way is mentioned. Our concerns include:



- Use of existing roadways within Villa Marina. A number of possible routes are mentioned within the Draft EIS/EIR including "Fiji Way and crossing Lincoln Boulevard from Area A to North Area C" (Table 2-11, pg. 2-122). Villa Marina is a pedestrian and bike friendly neighborhood. Our community includes families with small children and pets, as well as a large population of elderly residents. Any use of the streets within our neighborhood for soil transport or construction would create a tremendous disruption to our residents in terms of traffic, safety, noise and physical damage to our streets. **We strongly oppose any route for soil transport or construction/grading that involves use of the streets within the Villa Marina neighborhood (Fiji Way and/or La Villa Marina).**
- Disruption of the Fiji Barrier. Prior to the construction of the Fiji Barrier (located on Fiji Way just east of Lincoln Blvd), the streets within Villa Marina served as a non-stop thoroughfare for speeding motorists between Lincoln Blvd., Mindanao Way and the 90 freeway. After years of discussion with the City of Los Angeles, and as a Condition of Occupancy for the Aqua Marina del Rey apartments, the barrier was constructed, greatly increasing the safety of our neighborhood. Any disruption or removal of the Fiji Barrier would be detrimental to the safety of our neighborhood and would be unacceptable. **We strongly oppose any method or route for soil transport or construction/grading that involves disruption of the Fiji Barrier.**

As affected stakeholders in this process, we hope you will give serious consideration to our concerns. For the reasons mentioned above, we are opposed to Alternatives 1 and 2. Based on our current understanding of the Draft EIS/EIR, Alternative 3 best reflects our desire for a balance between restoration and access, notwithstanding our comments above regarding public access. However, we would welcome the opportunity to meet with the Lead Agencies to address any potential misconceptions or discuss any possible modifications to the various alternatives.

Thank you for the opportunity to provide comments on this important project.

Sincerely,

F. MILTON CONDON (Owner - 4745 (La Villa Marina)  
 # (310) 827-0102  
 Milton Condon

I am 84 yrs of age & have lived here for 40 yrs.  
 Property has been rented recently in order to  
 supplement my income. Work suggested would  
 cause harmful conditions for my tenants who  
 indicated they would have to relocate.  
 Our entire neighborhood would be impacted  
 by the action being proposed.  
 Please Vote against the Proposal)

Thank You  
 Milton Condon

F8-24

**From:** [Janna Scott](#)  
**To:** [AR-Ballona](#)  
**Subject:** FW: Ballona Draft EIS/EIR Comments  
**Date:** Monday, January 29, 2018 5:36:21 PM  
**Attachments:** [Ballona Draft EIS-EIR Comment Letter - SAH.pdf](#)

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**From:** Wildlife Ballona Wetlands Ecological Reserve EIR [<mailto:BWERcomments@wildlife.ca.gov>]  
**Sent:** Monday, January 29, 2018 5:29 PM  
**To:** Janna Scott <[JScott@esassoc.com](mailto:JScott@esassoc.com)>; Rogers, Bonnie L SPL <[Bonnie.L.Rogers@usace.army.mil](mailto:Bonnie.L.Rogers@usace.army.mil)>  
**Subject:** FW: Ballona Draft EIS/EIR Comments

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**From:** Sue Herrschaft [<mailto:sherrschaft@yahoo.com>]  
**Sent:** Monday, January 29, 2018 4:53 PM  
**To:** Wildlife Ballona Wetlands Ecological Reserve EIR <[BWERcomments@wildlife.ca.gov](mailto:BWERcomments@wildlife.ca.gov)>  
**Subject:** Ballona Draft EIS/EIR Comments

Dear Mr. Brody:

As a resident of Villa San Michele and Chair of the Villa Marina Council Sustainability Committee I would like to submit the attached comments on the Ballona Wetlands Restoration Project Draft EIS/EIR.

If possible, we would be interested in opening a dialog with the Lead Agencies to discuss our concerns and any possible solutions.

]

F8-25

Thank you for the opportunity to provide comments.

Regards,

Sue Herrschaft



SUSAN A. HERRSCHAFT

13214 B Fiji Way, Marina del Rey, CA 90292, Phone: (310) 890-2427, e-mail: [sherrschaft@yahoo.com](mailto:sherrschaft@yahoo.com)

January 29, 2018

Mr. Richard Brody  
California Department of Fish and Wildlife  
c/o ESA (jas)  
550 Kearny Street, Suite 800  
San Francisco, CA 94108

Dear Mr. Brody:

On behalf of the Villa Marina neighborhood, I would like to submit the following comments on the Ballona Wetlands Restoration Project Draft EIS/EIR.

Villa Marina is a community of 685 townhomes within 18 HOAs directly adjacent to Area C North. We have seen many changes to the Marina del Rey area since our neighborhood was built in 1966, and are grateful that the Ballona Wetlands Ecological Reserve has endured literally in our back yard during this time. But we have also seen the gradual ongoing deterioration of Area C North over the years. We support a plan that restores degraded areas and provides a habitat where native plant, bird and animal species can survive and thrive, as well as affords an opportunity for the public to enjoy the wetlands in an unobtrusive way. While we all agree that Area C North is long overdue for some much-needed rehabilitation, we feel that certain aspects of the Draft EIS/EIR could have a potentially negative impact on our neighborhood. We have identified three main areas of concern that directly affect Villa Marina:

***Excavation of soil from Area A and relocation to Area C North***

The Draft EIS/EIR states that under Alternatives 1 and 2, anywhere from 13 to 30 feet of soil above existing grade would be added to Area C North. This is excessive in our view, and would literally tower over our community of two story townhomes. **We strongly oppose any alternative that calls for the dumping of large quantities of soil in Area C North.** Our concerns include:

- **Aesthetics.** Our current view of Area C North from our neighborhood is that of an open field with views of Playa Vista, the Playa Bluffs and the Marina. The amount of soil described in the excavation plan of Alternatives 1 and 2 would transform that to a view of the side of a dirt mountain – even from the second story of our homes. In addition, we are concerned that the excavation and grading process will produce an inordinate amount of dust that, given the prevailing winds, would blow directly into our neighborhood.
- **Destruction of the current ecosystem.** We are concerned that the amount of soil placed on top of the current habitat would destroy the important existing ecological network within Area C North. This will take years to regenerate and does not fit our definition of “restoration.” There does not appear to be a logical reason for the relocation of this soil other than the need for a place to dump the excess fill excavated from Area A.
- **Displacement of wildlife.** We are concerned that once their habitat disappears, animals from Area C North will be driven into our neighborhood. This will have a negative impact not only on the animals forced to abandon the area, but on our residents, many with small children and pets, having to confront frightened wildlife near our homes or deal with the destruction of gardens and landscaping on our property caused by these animals.

- Stormwater drainage. We are unable to determine from the current plan how stormwater will drain or where it will be collected after rainstorms. Many of our residents already experience problems with groundwater seepage in their garages requiring sump pumps and French drains to keep their property dry. We are concerned that the plan will exacerbate these issues. We also worry that in the event of a significant rainstorm, the excavated soil could produce mudflows that would damage our property. **We would like to see a more thorough examination of the impact to our property of the proposed additional fill and assurances that this will not negatively affect us.**
- Existing retaining wall between Villa Marina and Area C North. Our properties currently share a low cinderblock retaining wall. It is unclear whether any of the alternatives call for plans to remove, replace or disturb this wall – or whether any other kind of fencing is planned. We would like more information on this issue.
- Project delays. While the initial excavation and relocation of the soil will occur early in the project, the grading and actual restoration is scheduled for much later. We are concerned about long delays that could lead to large amounts of dust generated from the dirt pile or changes in priorities or funding that would leave Area C North unfinished.

#### ***Public Access Plan***

The Draft EIS/EIR shows several public access entrances around the perimeter of Area C North, including one at the current dead end at La Villa Marina. **We strongly oppose any public access entrance located within the Villa Marina neighborhood.** Our concerns include:

- Traffic/Parking/Noise/Trash. We are concerned that the public access entrance proposed for the end of La Villa Marina will bring additional traffic to our neighborhood, which is already inundated with traffic, noise and trash from customers and employees of the nearby shopping center, court house and hospital. We have often found these individuals to show a general lack of respect for our neighborhood, and the additional traffic associated with this entrance would make this situation even worse. There are currently four other proposed public access entrances to this small area in the plan. Given this, we feel the La Villa Marina entrance is unnecessary.
- Security. The current proposed hours of the Reserve are from dawn to dusk. It is unclear whether the entrances will have secured gates that will be opened and closed daily, or whether these entrances will be lighted. We are in favor of secured entrances but are opposed to bright lights that would shine into our neighborhood. We would like more information on this issue.
- Homeless encampments. Historically, these encampments have been pervasive in Area C North and bring with them crime, drug use and trash. Authorities are often slow to remove them and they quickly reestablish. The plan states that should these encampments appear, CDFW will address these activities “as they have in the past” (pg. 2-158). This is inadequate in our view. **We would like to see a more proactive and robust plan for preventing transients from locating in Area C North and more timely removal of encampments.**
- Dogs. The plan does not state whether dogs will be allowed on the pedestrian trails within Area C North. If dogs are allowed, how will clean-up be enforced? Will pet waste stations be provided? We would like more information on this issue.

#### ***Soil Transport/Construction Route***

The Draft EIS/EIR refers to a number of different potential methods for transporting soil from Area A to Area C North, including the use of existing roadways. The specific routes are not clearly defined, however Fiji Way is mentioned. Our concerns include:

- Use of existing roadways within Villa Marina. A number of possible routes are mentioned within the Draft EIS/EIR including “Fiji Way and crossing Lincoln Boulevard from Area A to North Area C” (Table 2-11, pg. 2-122). Villa Marina is a pedestrian and bike friendly neighborhood. Our community includes families with small children and pets, as well as a large population of elderly residents. Any use of the streets within our neighborhood for soil transport or construction would create a tremendous disruption to our residents in terms of traffic, safety, noise and physical damage to our streets. **We strongly oppose any route for soil transport or construction/grading that involves use of the streets within the Villa Marina neighborhood (Fiji Way and/or La Villa Marina).**
- Disruption of the Fiji Barrier. Prior to the construction of the Fiji Barrier (located on Fiji Way just east of Lincoln Blvd), the streets within Villa Marina served as a non-stop thoroughfare for speeding motorists between Lincoln Blvd., Mindanao Way and the 90 freeway. After years of discussion with the City of Los Angeles, and as a Condition of Occupancy for the Aqua Marina del Rey apartments, the barrier was constructed, greatly increasing the safety of our neighborhood. Any disruption or removal of the Fiji Barrier would be detrimental to the safety of our neighborhood and would be unacceptable. **We strongly oppose any method or route for soil transport or construction/grading that involves disruption of the Fiji Barrier.**

As affected stakeholders in this process, we hope you will give serious consideration to our concerns. For the reasons mentioned above, we are opposed to Alternatives 1 and 2. Based on our current understanding of the Draft EIS/EIR, Alternative 3 best reflects our desire for a balance between restoration and access, notwithstanding our comments above regarding public access. However, we would welcome the opportunity to meet with the Lead Agencies to address any potential misconceptions or discuss any possible modifications to the various alternatives.

Thank you for the opportunity to provide comments on this important project.

Sincerely,



Sue Herrschaft  
Chair, Villa Marina Sustainability Committee



**From:** [Maura McCoy](#)  
**To:** [Wildlife Ballona Wetlands Ecological Reserve EIR](#)  
**Subject:** Comment Letter re: Ballona Wetlands Restoration Project Draft EIS/EIR  
**Date:** Thursday, January 25, 2018 4:39:57 PM  
**Attachments:** [Ballona Comment Letter 012418.pdf](#)

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To Whom It May Concern,

Attached please find my Comment Letter with respect to the Ballona Wetlands Restoration Project Draft EIS/EIR. I trust you will take these comments into consideration.

Thank you,

Maura McCoy  
13210 Fiji Way Unit K  
Marina del Rey, CA 90292  
Cell: (310) 266-7511  
[mauramac@mac.com](mailto:mauramac@mac.com)



January 23, 2018

Mr. Richard Brody  
California Department of Fish and Wildlife  
c/o ESA (jas)  
550 Kearny Street, Suite 800  
San Francisco, CA 94108

Dear Mr. Brody:

As a resident of the Villa Marina neighborhood whose townhome is directly adjacent to the boundary wall of Area C of the Ballona Wetlands, I would like to submit the following comments on the Ballona Wetlands Restoration Project Draft EIS/EIR. These comments were prepared by a member of our community and strongly reflect my views. I have also added some of my own comments.

We support a plan that restores degraded areas and provides a habitat where native plant, bird and animal species can survive and thrive, as well as affords an opportunity for the public to enjoy the wetlands in an unobtrusive way. While we all agree that Area C North is long overdue for some much-needed rehabilitation, we feel that certain aspects of the Draft EIS/EIR could have a potentially negative impact on our neighborhood. We have identified three main areas of concern that directly affect Villa Marina:

***Excavation of soil from Area A and relocation to Area C North***

The Draft EIS/EIR states that under Alternatives 1 and 2, anywhere from 13 to 30 feet of soil above existing grade would be added to Area C North. This is excessive in our view, and would literally tower over our community of two story townhomes. **We strongly oppose any alternative that calls for the dumping of large quantities of soil in Area C North.** Our concerns include:

- Aesthetics. Our current view of Area C North from our neighborhood is that of an open field with views of Playa Vista, the Playa Bluffs and the Marina. The amount of soil described in the excavation plan of Alternatives 1 and 2 would transform that to a view of the side of a dirt mountain – even from the second story of our homes. In addition, we are concerned that the excavation and grading process will produce an inordinate amount of dust that, given the prevailing winds, would blow directly into our neighborhood. **This will affect me directly as my unit overlooks Area C and has windows and doors that open onto that area. I strongly object.**
- Destruction of the current ecosystem. We are concerned that the amount of soil placed on top of the current habitat would destroy the important existing ecological network within Area C North. This will take years to regenerate and does not fit our definition of “restoration.” There does not appear to be a logical reason for the relocation of this soil other than the need for a place to dump the excess fill excavated from Area A.
- Displacement of wildlife. We are concerned that once their habitat disappears, animals from Area C North will be driven into our neighborhood. This will have a negative impact not only on the animals forced to abandon the area, but on our residents, many with small children and pets, having to confront frightened wildlife near our homes or deal with the destruction of gardens and landscaping on our property caused by these animals.



- Stormwater drainage. We are unable to determine from the current plan how stormwater will drain or where it will be collected after rainstorms. Many of our residents already experience problems with groundwater seepage in their garages requiring sump pumps and French drains to keep their property dry. We are concerned that the plan will exacerbate these issues. We also worry that in the event of a significant rainstorm, the excavated soil could produce mudflows that would damage our property. **We would like to see a more thorough examination of the impact to our property of the proposed additional fill and assurances that this will not negatively affect us.**
- Existing retaining wall between Villa Marina and Area C North. Our properties currently share a low cinderblock retaining wall. It is unclear whether any of the alternatives call for plans to remove, replace or disturb this wall – or whether any other kind of fencing is planned. We would like more information on this issue.
- Project delays. While the initial excavation and relocation of the soil will occur early in the project, the grading and actual restoration is scheduled for much later. We are concerned about long delays that could lead to large amounts of dust generated from the dirt pile or changes in priorities or funding that would leave Area C North unfinished.

#### ***Public Access Plan***

The Draft EIS/EIR shows several public access entrances around the perimeter of Area C North, including one at the current dead end at La Villa Marina. **We strongly oppose any public access entrance located within the Villa Marina neighborhood.** Our concerns include:

- Traffic/Parking/Noise/Trash. We are concerned that the public access entrance proposed for the end of La Villa Marina will bring additional traffic to our neighborhood, which is already inundated with traffic, noise and trash from customers and employees of the nearby shopping center, court house and hospital. We have often found these individuals to show a general lack of respect for our neighborhood, and the additional traffic associated with this entrance would make this situation even worse. **There are currently four other proposed public access entrances to this small area in the plan. Therefore, the La Villa Marina entrance is unnecessary. I strongly object to this proposed entrance.**
- Security. The current proposed hours of the Reserve are from dawn to dusk. It is unclear whether the entrances will have secured gates that will be opened and closed daily, or whether these entrances will be lighted. We are in favor of secured entrances but are opposed to bright lights that would shine into our neighborhood. We would like more information on this issue.
- Homeless encampments. Historically, these encampments have been pervasive in Area C North and bring with them crime, drug use and trash. Authorities are often slow to remove them and they quickly reestablish. The plan states that should these encampments appear, CDFW will address these activities “as they have in the past” (pg. 2-158). This is inadequate in our view. We would like to see a more proactive and robust plan for preventing transients from locating in Area C North and more timely removal of encampments. **As I am directly adjacent to the area where these encampments occur, I have ongoing concerns for my personal safety as well as the safety of my family, guests and personal property. I have contacted authorities multiple times to report the encampments and transient activity in this area.**
- Dogs. The plan does not state whether dogs will be allowed on the pedestrian trails within Area C North. If dogs are allowed, how will clean-up be enforced? Will pet waste stations be provided? We would like more information on this issue.

F8-26



***Soil Transport/Construction Route***

The Draft EIS/EIR refers to a number of different potential methods for transporting soil from Area A to Area C North, including the use of existing roadways. The specific routes are not clearly defined, however Fiji Way is mentioned. Our concerns include:

- Use of existing roadways within Villa Marina. A number of possible routes are mentioned within the Draft EIS/EIR including “Fiji Way and crossing Lincoln Boulevard from Area A to North Area C” (Table 2-11, pg. 2-122). Villa Marina is a pedestrian and bike friendly neighborhood. Our community includes families with small children and pets, as well as a large population of elderly residents. Any use of the streets within our neighborhood for soil transport or construction would create a tremendous disruption to our residents in terms of traffic, safety, noise and physical damage to our streets. **We strongly oppose any route for soil transport or construction/grading that involves use of the streets within the Villa Marina neighborhood (Fiji Way and/or La Villa Marina).**
- Disruption of the Fiji Barrier. Prior to the construction of the Fiji Barrier (located on Fiji Way just east of Lincoln Blvd), the streets within Villa Marina served as a non-stop thoroughfare for speeding motorist between Lincoln Blvd., Mindanao Way and the 90 freeway. After years of discussion with the City of Los Angeles, and as a Condition of Occupancy for the Aqua Marina del Rey apartments, the barrier was constructed, greatly increasing the safety of our neighborhood. Any disruption or removal of the Fiji Barrier would be detrimental to the safety of our neighborhood and would be unacceptable. **We strongly oppose any method or route for soil transport or construction/grading that involves disruption of the Fiji Barrier.**

As affected stakeholders in this process, we hope you will give serious consideration to our concerns. For the reasons mentioned above, **we are opposed to Alternatives 1 and 2.** Based on our current understanding of the Draft EIS/EIR, Alternative 3 best reflects our desire for a balance between restoration and access, notwithstanding our comments above regarding public access. However, we would welcome the opportunity to meet with the Lead Agencies to address any potential misconceptions or discuss any possible modifications to the various alternatives.

Thank you for the opportunity to provide comments on this important project.

Sincerely,

Maura McCoy  
13210 Fiji Way Unit K  
Marina del Rey, CA 90292



## Letter F8: Villa Marina Council

F8-1 The Villa Marina community has been located adjacent to Area C North since 1966 and any observed deterioration that has occurred within the Ballona Reserve since that time, are acknowledged and are now part of the record of information that will be considered as part of CDFW's decision-making process. Support for restoration and concerns about potential Project-related changes to the neighborhood also are acknowledged and are now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*. Specific comments are addressed in the responses that follow.

F8-2 The comment is correct that elevations in North and South Area C would change under Alternative 2 and to a greater extent under the Project. As stated in the Draft EIS/EIR, restoration under Alternative 2 could raise the elevation in North and South Area C "up to an elevation between 38 and 50 feet NAVD 88 (or a height of up to approximately 13 to 25 feet above existing grade)" to create elevated areas of upland habitat (Section 2.2.3.1). This could occur as part of an overall plan to reposition "between 2,120,000 and 2,180,000 cy of dredged or fill material on the project site as perimeter levees, transition zones, and upland restoration areas to allow Ballona Creek to reconnect with its historic floodplain" (Section 1.2.2.2). Fill material generated by Alternative 2's restoration-related excavation would be redistributed primarily on-site in East Area B (up to 340,000 cy), with the remaining onsite materials to be relocated to North Area C (up to 500,000 cy), and South Area C (up to 540,000 cy) (Section ES.4.2).

The Project's elevation change in North and South Area C would be greater: it would raise the elevations in Area C from the existing approximately 12 to 28 feet NAVD 88 to an elevation between approximately 40 and 55 feet NAVD 88 (or a height of up to approximately 15 to 30 feet above existing grade) (Draft EIS/EIR Section 2.2.2.1). This could occur as part of the Project's overall plan to reposition "between 2,290,000 and 2,420,000 cy of dredged or fill material" on the Project Site "as perimeter levees, transition zones, and upland restoration areas to allow Ballona Creek to reconnect with its historic floodplain" (Section 1.2.2.1). Fill material generated by Alternative 3's restoration-related excavation "would be redistributed primarily on-site in North Area C (up to 720,000 cy), with additional material to be relocated to South Area C (up to 300,000 cy)" (Section ES.4.1). Specifically in North and South Area C, "upland habitats would be restored and enhanced, with an emphasis on coastal sage scrub and grassland habitat, with smaller areas of seasonal wetlands" (Section 2.2.2.1).

Opposition to alternatives that would reposition larger amounts of soil to Area C is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*. The elevation of this area would not change under Alternative 3 or Alternative 4. Under Alternative 3, "soil not needed for the new Area A perimeter levee would be exported off site" and upland habitat in Area C "would be enhanced





- without grading. Enhancement would include invasive removal and replanting” (Draft EIS/EIR Section 2.2.4.1). In addition, see Response F8-3 regarding consideration of view effects.
- F8-3 Draft EIS/EIR Section 3.2, *Aesthetics*, includes an evaluation of changes to views of Area C north. As described in Impact 1-AE-1 in Section 3.2.6.1, the Project’s proposed restoration activities “would change scenic vistas as seen from within and from surrounding the Project Site as the earth moving equipment and materials, stockpiled soil fill, a potential for visible dust plumes, and debris piles would partially obscure scenic vistas when viewed in close proximity to Area A or Area C.” Following restoration, Impact 1-AE-3, Section 3.2.6.1 describes “noticeable changes” resulting from Alternative 1 as including “the relocation of excavated materials to Area C to create elevated areas of upland habitat on either side of the channel, and the excavation of additional channels in West Area B and Area C. Much of the site would be revegetated to replace the existing non-native vegetation with a variety of vegetation.” Thus, while the Project would change the existing topography of the site substantially, the general conditions would be improved by establishment of more natural looking features resulting in a beneficial effect over existing conditions. “Where visible, the Project related change would not substantially alter the visual character or quality of the area.” As analyzed in Section 3.2.6.2, Alternative 2 would also temporarily change views surrounding the site because “the earth moving equipment and materials, stockpiled soil fill, a potential for visible dust plumes, and debris piles would partially obscure scenic vistas when viewed in close proximity to Area A and Area C.” Following restoration under Alternative 2, “new upland habitat areas in Area C would entirely obscure distant views of Playa Vista to the southeast from view point KOP 1 (Figure 3.2-3); however, views to the east would remain relatively unchanged and these mounds would decrease in visibility at further distances” (Section 3.2.6.2). Ultimately, the topography would change, but the overall character of the site would remain open space and with native vegetation. CDFW recognizes that the views from Villa Marina would be changed for those individuals with windows facing the Ballona Reserve, but the general public does not have access to those views.<sup>53</sup> Additionally, the wall on the border between the residences and the Ballona Reserve interferes with most any view from ground level. Still, the commenter’s objection to these changes to existing views for some individuals is acknowledged and is now part of the record of information that will be considered as part of CDFW’s decision-making process.
- F8-4 Draft EIS/EIR Section 3.3, *Air Quality*, summarizes South Coast Air Quality Management District (SCAQMD) Rule 403’s prohibition of emissions of fugitive dust from any active operation, open storage pile, or disturbed surface area that remains visible beyond the emission source property line. A Project-specific dust-control plan would specify actions to be taken to comply with this requirement,

<sup>53</sup> See, e.g., Google, 2017. Google Street View of 13271 Fiji Way, 13237 Fiji Way, 13233 Fiji Way, 13229 Fiji Way, 13209 Fiji Way, 13200 Fiji Way, and 4899 La Villa Marina. November 2017.



- including, for example, applying water in sufficient quantities to prevent the generation of visible dust plumes, applying soil binders to uncovered areas, reestablishing ground cover as quickly as possible, and maintaining effective cover over exposed areas (see Section 3.3.5.1 describing the plan). The commenter's concerns about the potential for Project dust to affect the Villa Marina neighborhood is acknowledged; however, compliance with SCAQMD requirements would be independently enforceable obligations of the Project proponent; the enforcement of requisite compliance with Rule 403 would sufficiently address such concerns.
- F8-5 Draft EIS/EIR Section 3.4, *Biological Resources*, evaluates temporary and permanent impacts to habitats and species. The commenter's disagreement about whether work proposed specifically within North Area C (rather than by the Project as a whole) comports with the definition of restoration and disagreement about the overall onsite versus offsite soil balance is noted and is now part of the record of information that will be considered as part of CDFW's decision-making process.
- F8-6 Overall redistribution of wildlife during the restoration period for the Project and Alternative 2 may occur but their presence and movement patterns are likely already to be affected by the existing paved surfaces and areas of fill/dirt associated with existing parking lots and activities associated with the baseball fields and the SoCalGas well pads and staging areas. As described in Draft EIS/EIR Section 3.4, *Biological Resources*, bird species typically observed in Area C include American kestrel, doves, Anna's hummingbird, American crow, northern mockingbird, song sparrow, house finch, house sparrow and others (see Section 3.4.2.2). These and other species that occasionally forage in or over Area C would be expected to redistribute elsewhere within the Project Site or within their range for the duration of restoration activities. Also as discussed in Section 3.4.2.2, Area C supports narrowleaf milkweed (*Asclepias fascicularis*), which is used as a larval host plant for Monarch butterfly (*Danaus plexippus*), a non-listed special-status species. Following restoration, non-natives such as carnation spurge no longer would be present and instead native upland habitat would be available in Area C to the benefit of wildlife. Without more information about what types of Area C wildlife could endanger neighborhood children or pets, CDFW is unable to more directly address the general concern raised. However, it should be noted that larger mammals, such as coyote, which are capable of traveling long distances for prey, can currently venture into nearby neighborhoods to interact with people, and would be expected to continue that trend throughout the Project and into the future.
- F8-7 See Response F8-2 regarding the increase in the elevation of North and South Area C that would occur under the Project and Alternative 2. These elevation changes could affect stormwater hydrology relative to existing conditions. As described in Draft EIS/EIR Section 2.2.2.1, the upland areas would be graded under Alternative 1 "so that rainfall would flow into and support seasonal wetlands and other upland habitats in Area C." Section 2.2.2.2 further explains that, under Alternative 1, "Drainage for South Area C would be collected on site through a network of graded surface bio-



swales and channels and underground drainage conduits, and discharged into existing drainage facilities in Culver Boulevard and at the Culver Boulevard/Lincoln Boulevard intersection. In addition, some stormwater runoff from the eastern portion of South Area C would be directed to the existing seasonal wetlands adjacent to the Marina Freeway (SR 90) on-ramp, enhancing the native vegetation cover and biological function. In the northwest corner of North Area C, a settling basin would be constructed within Fiji Ditch just before the culvert under Lincoln Boulevard to remove sediment and contaminants from stormwater. Appendix B2, *Stormwater Management Plan*, provides the sizing and location of the bio-swales and settling basin.” Under Alternative 2, upland areas also “would be graded so that rainfall would flow into and support seasonal wetlands and other upland habitats in Area C” (Section 2.2.3.1). The potential for the proposed restoration to result in offsite stormwater-related impacts is analyzed in Draft EIS/EIR Section 3.9, *Hydrology and Water Quality*. There is no evidence that the Project would exacerbate existing groundwater seepage or offsite surface water stormwater-related conditions in the Villa Marina community.

As stated in Draft EIS/EIR Section 3.9, *Hydrology and Water Quality*, “the construction activities for the proposed restoration would be required to comply with the Construction General Permit for the State and be managed for consistency with the County MS4 Permit as part of the permitting process.” Further, “for work in the channel, the Project also would be required to comply with a Section 401 Certification. Compliance with the General Construction Permit, MS4 Permit, and 401 Certification would ensure that the proposed activities would include adequate stormwater protection through BMPs and monitoring, to limit sediments leaving the construction site.” Improving stormwater management is one of the goals of the Project. Ultimately, stormwater will continue to drain into Ballona Creek but could occur via detention in the proposed Culver Boulevard stormwater detention wetland. The removal of the levees would increase the tidal range and increase the advancement of saltwater intrusion; however, for the location of the Villa Marina neighborhood, the effect on groundwater levels would be negligible. Groundwater levels would continue to be shallow and tidally influenced based on proximity to the shoreline.

- F8-8 None of the alternatives analyzed in the Draft EIS/EIR would require or result in changes to the existing cinder block retaining wall between Villa Marina and North Area C. See Draft EIS/EIR Chapter 2, *Description of Alternatives*. The Project would include an access point at La Villa Marina to connect to the trails on-site, as shown in Figure 2-3.
- F8-9 See Response F8-4 regarding why compliance with independently enforceable SCAQMD requirements (including Rule 403) would sufficiently address dust-related concerns.



- F8-10 Opposition to public access between the Villa Marina neighborhood and the Ballona Reserve at the perimeter of North Area C is acknowledged and the potential impacts of additional visitorship and other reasons for this opposition are acknowledge and are now part of the record of information that will be considered as part of CDFW's decision-making process.
- F8-11 See Response F8-10 and, regarding trash, see Response F8-13. Cumulative traffic impacts are analyzed in Draft EIS/EIR Section 3.12.7, which evaluates the potential cumulative impact of the Project on the local street system. Cumulative noise impacts, including traffic-related noise, are analyzed in Draft EIS/EIR Section 3.10.7.
- F8-12 All primary and secondary entrances would have lockable gates to secure access during nighttime hours (Draft EIS/EIR Section 2.2.2.3). While lighting is proposed near parking areas, no lighting is proposed for entrances (see Draft EIS/EIR Chapter 2).
- F8-13 The Draft EIS/EIR acknowledges that "illegal uses (such as trash dumping and transient people's encampments) occur throughout the Ballona Reserve" under existing conditions (Section ES.1 and Section 1.2.2; see also Section 2.2.2). These illegal uses of the Ballona Reserve are subject to ongoing removal efforts by CDFW independent of the Project. The stated preference for additional allocation of resources for such removal efforts is acknowledged, but is not proposed as part of the Project.
- F8-14 Pets, including dogs and cats, are prohibited within the Ballona Reserve (14 CCR §630(h)(3)).
- F8-15 There is no plan to use roadways within the Villa Marina neighborhood due to Fiji Way being closed to through traffic within that neighborhood. Still, the stated preference for avoiding any truck traffic within Villa Marina, specifically Fiji Way, is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.
- F8-16 Neither the Project nor Alternative 2 or 3 propose to remove the "Fiji Barrier" from Fiji Way just east of Lincoln Boulevard.
- F8-17 Opposition to the Project and Alternative 2 and support for Alternative 3 (with the exception of the public access point proposed between the Villa Marina neighborhood and the Ballona Reserve at the perimeter of North Area C) are acknowledged and are now part of the record of information that will be considered as part of CDFW's decision-making process.
- F8-18 See Response F8-2 regarding the relocation of soil from elsewhere within the Ballona Reserve to North and South Area C. Concerns about the potential for proposed restoration to result in a disproportionate impact under any of the alternatives are





- addressed in Draft EIS/EIR Section 3.14, *Socioeconomics and Environmental Justice*, which evaluates whether the environmental and human health-related impacts of the alternatives would disproportionately affect minority and low-income populations consistent with Executive Order (E.O.) 12898 and related CEQ guidance, regarding the protection of children from environmental health risks, also in accordance with E.O. 13045. The Villa Marina community is not a minority or low-income population for these purposes as discussed in Section 3.14.
- F8-19 The preference that soil from Areas A and B not be placed in Area C and the opinion about who should bear the cost of soil removal are acknowledged and are now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.
- F8-20 The communications summarized in this comment are acknowledged. Descriptions of the proposed restoration activities are provided for each of the restoration alternatives in Draft EIS/EIR Chapter 2. See, e.g., Section 2.2.2.1 regarding the Project ("In North and South Area C, upland habitats would be restored and enhanced, with an emphasis on coastal sage scrub and grassland habitat, with smaller areas of seasonal wetlands and a restored Fiji Ditch channel riparian corridor within the upper portion of the Fiji Ditch in North Area C."), Section 2.2.3.1 regarding Alternative 2 ("Soil excavated to restore wetlands in Area A would be placed in North and South Area C to create elevated areas of upland habitat"), and Section 2.2.4.1 regarding Alternative 3 ("In Area C, upland habitat would be enhanced without grading. Enhancement would include invasive removal and replanting.").
- F8-21 Concerns about the public access proposed between the Villa Marina neighborhood and the Ballona Reserve at the perimeter of North Area C on the basis of potential impacts of additional visitorship are acknowledged. See Response F8-11 regarding cumulative traffic and noise impacts, Response F8-12 regarding security, and Response F8-13 regarding illegal use of the Ballona Reserve.
- F8-22 Potential impacts of the proposed walkways are analyzed on a resource-by-resource basis throughout Draft EIS/EIR Chapter 3, *Environmental Consequences*. Each of the potential restoration alternatives has been developed with careful consideration of the project objectives set forth in Draft EIS/EIR Section 1.1.2, including restoration, enhancement, and creation of habitats as well as developing and enhancing wildlife-dependent uses and secondary compatible on-site public access for recreation and educational activities.
- F8-23 Regarding aesthetic concerns, see Response F8-3. Any suggestion that the proposed restoration of the Ballona Reserve would affect property values (positively or negatively) is speculative.
- F8-24 Regarding property values, see Response F8-23. Opposition to restoration as proposed under the Project or Alternative 2 is acknowledged and is now part of the



record of information that will be considered as part of CDFW's decision-making process.

- F8-25      Regarding agency and public involvement on the Draft EIS/EIR, see Final EIR Section 1.4. Opportunities for written and other dialogue with agencies occurred during the extended public comment period and oral comments on the Draft EIS/EIR were invited at the public meeting held on November 8, 2017.
- F8-26      Regarding ongoing illegal activity in the Ballona Reserve, see Response F8-13.



## Support of a Robust Science-based Restoration of the Ballona Wetlands Ecological Reserve

I, Hannah Sand endorse a robust science-based restoration of the Ballona Wetlands based on the Wetlands Restoration Principles ([www.wetlandsrestoration.org](http://www.wetlandsrestoration.org)), written by the Coalition including Heal the Bay, Friends of Ballona Wetlands, LA Waterkeeper, Trust for Public Land, and Surfrider Foundation.

Together we encourage the Department of California Fish and Wildlife to:

1. Protect, enhance and create diverse habitats for native plants and wildlife. Optimize diversity and enhance quality of wildlife habitats throughout Ballona, including wetland, riparian, dune, and upland environments.
2. Maximize and enhance wetland acreage and function. Also maximize diversity of created/restored wetland habitats, i.e. low, mid, and high marshes, salt pan, and brackish marsh.
3. Increase watershed connectivity.
4. Create nurseries for fish and nesting habitat for birds.
5. Manage for rare and sensitive species.
6. Create public access that is open, accessible, and welcoming to all people throughout Los Angeles using well-regulated trails for public access and educational opportunities that are compatible with restoration goals that protect habitat.
7. Ensure long-term resilience and sustainability with estimated future sea level rise.
8. Reduce habitat fragmentation by providing wildlife travel corridors to minimize wildlife injury and mortality from vehicles.
9. Safeguard as much wildlife as possible and minimize losses.
10. Use appropriate measures of law enforcement to protect Ballona from trespassing, dumping, and other negative impacts.

F9-1

Signature: [Handwritten Signature]

Address: 419 1/2 N Gardner St

City: LA Zip: 90030



## **Letter F9: Wetlands Restoration Principles Coalition Letter**

F9-1        The stated support for science-based restoration as enumerated in the comment is acknowledged and is now part of the record of information that will be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.

### **2.3.6 Responses to Organizations' Comments**

The following pages contain the comment letters received from organizations and CDFW's associated responses.





# BALLONA CREEK *Renaissance*

P.O. Box 843, Culver City CA 90232

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February 4, 2018

### DRAFT ENVIRONMENTAL IMPACT STATEMENT / ENVIRONMENTAL IMPACT REPORT (DEIS/EIR) BALLONA WETLANDS RESTORATION PROJECT (BWER)

ATTENTION: Colonel Kirk E. Gibbs, Commander, 61st Division  
and Daniel Swenson, Regulatory Division, U.S. Army Corps of  
Engineers Los Angeles District 915 Wilshire Boulevard, Suite 930  
Los Angeles, California 90017 Telephone: (213) 452-3414 Email:  
[daniel.p.swenson@usace.army.mil](mailto:daniel.p.swenson@usace.army.mil)

ATTENTION: Director Charlton H. Bonham and Richard Brody,  
Land Manager Ballona Wetlands, California Department of Fish  
and Wildlife (BWER) c/o ESA (jas) 550 Kearney Street, Suite 800  
San Francisco, California 94108 Telephone: (415) 896-5900 Email:  
[BWERcomments@wildlife.ca.gov](mailto:BWERcomments@wildlife.ca.gov)

RE: Ballona Creek Renaissance Comments

Dear Colonel Kirk E. Gibbs, Mr. Daniel Swenson, Director Charlton H. Bonham and Mr. Richard C. Brody,  
On Behalf of Ballona Creek Renaissance, (BCR), we respectfully submit our questions below. We wanted  
to include a bit about ourselves for those that are not. Ballona Creek Renaissance (BCR) is a non-profit  
tax-exempt 501(c)(3) organization based in Culver City. Our purpose is to improve Ballona Creek and  
the community use of it in several ways: Water quality, Ecosystems, Recreation, Education,  
Attractiveness and amenities. In addition, BCR seeks to provide educational and service opportunities  
for students and community members to learn more about our environment and how we can work  
together to make it better, step by step. BCR seeks a consensus on improvements to the creek and its  
watershed that respects the interests of all stakeholders. We work with various groups and sponsor  
public workshops to gather ideas and opinions. As a result, we have gathered strong support from  
broad areas of the community. Our growing list of partners includes:

- Public agencies at all levels of government: Federal, State, County, City and School District
- Environmental and recreational organizations
- Businesses
- Community groups
- Students and teachers
- Interested individuals and the general public

***Ballona Creek Renaissance (BCR)...Connecting Creek and Community***

A Culver City-based 501(c)(3) nonprofit organization, Federal Tax ID No. 95-4764614

310-839-6896, [www.ballonacreek.org](http://www.ballonacreek.org)

1.	<b>Parking (BH)</b> <b>Q1:</b> Why did the Draft EIR/S assume that a three-story parking garage is appropriate on state preserve land in the NW corner of Area A? This current temporary parking lot was built with the understanding that it would revert to wild habitat for the reserve. <b>Q2:</b> Why is the additional expense of making a curved levee around this underused lot appropriate for a Ballona Wetlands Ecological Reserve when vast areas of parking area are available in the marina to the north? <b>Q3:</b> Is the proposed 3-story parking garage intended to serve the wildlife or the businesses in the marina? (NOTE: We are opposed to keeping any pavement and/or parking of any type on Area A, B, or C)	O1-2
2.	<b>Land Height (BH)</b> <b>Q1:</b> Does the placement of high levees along Culver Blvd serve to enhance wild habitat or simply protect the road from rising waters? <b>Q2:</b> How is it that these levees will not further fragment the ecosystem by separating Area A and Area B? <b>Q3:</b> Why hasn't the feasibility of a raising Culver Blvd on pylons been considered? <b>Q4:</b> As sea levels rise, wouldn't an elevated Culver Blvd better serve the ecosystem by allowing free movement of water and wildlife under the road?	O1-3 O1-4
3.	<b>Land Height (DG)</b> In Alternatives 1,2 and 3 there is a proposal to move a great amount of earth into Areas A and C. This creates an unusual environment that is greatly visually inaccessible from people riding their bikes along the path or driving along the road. Area C is already much higher than normal and would become less visible with these proposed layouts. The flora and fauna currently on these two areas is supporting an abundance of wildlife. A better solution would be to: plant native species that support the local fauna, to remove some of the non-native plants and not to dump soil atop of the existing plants, thereby risking elimination or transplantation of several species, and to allow water to stay in this area therefore providing nutrition to the plants and animals. <b>Q:</b> Would you consider this as a solution?	O1-5 O1-6
4.	<b>Baseball Fields (DG)</b> Regarding the baseball fields currently located on Area C: over the course of a couple of baseball seasons, one of our members have personally witnessed the managers of the fields use poison on the native gophers and generate excessive pollution with careless disregard to the natural surrounds; the value of this field needs to be considered. <b>Q:</b> If the fields remain on this site, could care be taken to keep their impact minimal by more efficiently laying out their usable land, providing street side parking rather than provide a lot on the wetlands, establishing a recycling program and manage the site through LA parks & recreation or another appropriate governmental agency?	O1-7
5.	<b>Material Selection (DG)</b> As an example of a bad aesthetic, the Oxford Lagoon project (although the vegetation is still growing in), is unattractive and "corporate" in its design. The lights are over-abundant and there is too much sidewalk, making this is an example of a project dedicated to the people of the neighborhood that has disregarded the needs of the wildlife species that used to inhabit this lagoon. <b>Q:</b> In any of the final layouts, could you consider minimal lighting (for migratory birds), minimal hardscape (for percolation of water), and no dark-colored paving surfaces (for LRV quality and minimizing "heat island" effect).	O1-8

## Comment Letter O1

6. **Material Selection (DG)** In general: **Q1:** when hardscape materials are proposed (as in the bike paths) could you utilize only semipermeable materials, like decomposed granite or other? **Q2:** when utilizing hardscape elements, please keep them to a minimum and utilize only light colored, highly reflective values – no blacktop – so that there is minimal contribution to the Heat Island Effect. This is not a park! It's a reserve, and therefore we want to see only natural, native materials as much as possible.

O1-9

7. **Natural Gas Pipes and Gas Storage Facility(AR)** **Q1:** In Alternatives 1, 2, and 3, can we be assured that taxpayer money intended for the restoration of the wetlands will not be used to relocate the existing natural gas pipes to Southern Calif. Gas's private property? **Q2:** Similarly can we be assured that taxpayer money intended for the restoration of the wetlands will not be used to repair the existing natural gas pipes to Southern Calif. Gas's private property? We would prefer that all wells be capped and sealed such that they provide no pollution to the adjacent homeowners and general public. **Q3:** Can we also be assured that there will be no new wells created and that only pipe repairs and new pipes be installed to transfer natural gas will occur?

O1-10

8. **Public Access (AR)** Given the many entry points to the Wetlands in Alternatives 1, 2, and 3, will this create the possibility for too many people to have access to the wetlands to the detriment of the wildlife and native plants? Will the visitors bring trash and pollution to this reserve, intentionally or not? Will there be governmental maintenance of the wetlands and marshes such that the trash is not allowed to settle in the plants or wash out to the ocean?

O1-11

### 9. **Trash Removal: (SC)**

Also from DIER, page 35: "Operation and maintenance activities would include: **continuation (unchanged) of existing trash removal efforts at the existing trash boom system (or trash net) between the Culver Boulevard and Lincoln Boulevard bridges.**

**Q1:** How will any of these "Restoration" plans increase and improve trash removal efforts? The DEIR indicates that the current system of removal will be unchanged. BCR has been conducting cleanups on the creek for a decade and has concentrated its efforts on trash removal and litter control. With Ballona Creek in its current form as a straight concrete channel, our experience is that most of the trash flows down to the ocean, some of it getting stuck in vegetation along the way or at the boom at Lincoln but mainly flows to the ocean. There have been inefficient systems to capture the debris upstream from entering the bay, in the creek's current form. If the creek is diverted into Area A, abundant amounts of trash will flow and settle into the Wetlands and vegetation, polluting the area accessible to wildlife, becoming a dump park and soar on the eyes.

O1-12

**Q2:** How is the flow of litter going to be handled to avoid this? See photos below of devastating amounts of trash, up from the boom. This project is an excellent opportunity to catch the litter efficiently and to finally tackle this issue appropriately. The below photos show the litter issue:

Nov. 1, 2016 at Lincoln Blvd. (Photo: S. Cassidy):





O1-13





Oct. 24<sup>TH</sup>, 2016, Near Centinela Bridge:



O1-14

Oct. 23, 2016:



10. **This is Not a Park:** (SC, DG) Fig. 2-28 shows the entrance to a park, not a wetland! **Q:** Could efforts be taken to ensure that only natural elements are used for walkways and built elements are minimal, if at all? It is important to remember there is no “built design” required for a beautiful wetland; we only need plants and animals! Note, we are not opposed to educational paths and bike lanes but prefer not to have them inside of the wetlands area, thereby giving a wide berth of land to native animals. O1-15
11. **Animal Protection:** **Q:** (SC) How do Alternatives 1 and 2 provide protection when it is the law: **under California Fish and Game Code Sections 1580-1587, the purpose of which is to provide protection for rare, threatened, or endangered native plants, wildlife, aquatic organisms, and specialized terrestrial or aquatic habitat types?** O1-16



## Comment Letter O1

p. 424 Indirect Impacts: "With implementation of Alternative 1, there would be an increase in visitors to the site associated with reopening the Ballona Reserve to the public; however, this increase in activity would not substantially change the existing visual character or quality of the Project site. The impact would be less than significant

12. **Increase in Visitors:** (SC, DG) Statements like this are evidence of skewed priorities in this project; the increase of people visiting the wetlands would have a greater impact both to the trash accumulation and in the comfort of the native wildlife that live there which *would* substantially change the visual character or quality of the project site. This is a very subjective statement with no qualifications. **Q1:** could all care be taken that the wildlife are not encroached upon any more than they currently are? **Q2:** could all care be taken to keep as great a space as possible for native animals to live? **Q3:** Water will most likely stagnate in these new areas during the dry season and create smells that would affect visitors, animals and residents. Has consideration been given into resolutions for this probable problem? And if not, could it be given?

O1-17

O1-18

O1-19

*Appendix B and elsewhere as applicable:*

13. **Ecological Boundaries:** (JL) **Q:** To facilitate a more informed review of future project documents, could please more clearly indicate the boundaries of the Ecological Reserve on all relevant maps, aerial views, plan views, and cross sections? This would include showing the reserve's boundaries across and around Ballona Creek at the east end of Area C.

O1-20

14. **Offsite Parking:** (JL) **Q:** Could you please provide a transportation and access study that includes offsite parking facility options and possible phase-out of existing on-site surface parking and their related leases?

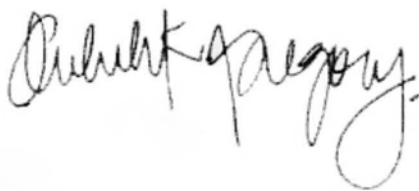
O1-21

15. **New Parking Study:** (JL) **Q:** In light of Nos.1 and 2 above, could you please hold construction of any new parking structures or lots until off-site alternatives are identified and evaluated in a comparative study?

O1-22

.....End of BCR comments.....

Respectfully,



Deborah Gregory, Secretary  
On behalf of Ballona Creek Renaissance (BCR)  
Connecting Creek and Community  
from the Hills to the Bay

310.413.4196

<http://facebook.com/ballonacreekrenaissance>  
[www.ballonacreek.org](http://www.ballonacreek.org)



## Letter O1: Ballona Creek Renaissance

- O1-1 Receipt of this information about Ballona Creek Renaissance and its community partners is acknowledged as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.
- O1-2 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.4), which addresses multiple comments regarding the proposed parking facilities. The stated opposition to keeping pavement or parking within the Ballona Reserve is acknowledged and has been included in the record for the Project, where it can be taken in to consideration as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.
- O1-3 The levees along Culver Boulevard would provide protection from rising sea levels for Culver Boulevard as well as the managed wetlands south of Culver Boulevard. Additionally, the creation of a levee to protect Culver Boulevard would allow tidal wetlands to be restored in North Area B without impacting Culver Boulevard.
- O1-4 See General Response 3, *Alternatives* (Final EIR Section 2.2.3.4), which addresses alternatives that were initially considered, but not carried forward for more detailed review, including Alternative 9: Realignment of Ballona Creek Including Relocation or Raising of Key Roads. Alternative 7 or Alternative 8 proposed improving and raising Culver Boulevard, Jefferson Boulevard, and the SoCalGas on levees or a causeway to create an open connection to approximately 20 to 25 acres of enhanced wetlands in south Area B.
- O1-5 As analyzed in Draft EIS/EIR Section 3.2, *Aesthetics*, the implementation of Alternative 1 would result in the creation of upland habitat in Area C. While the creation of this wetland habitat, "would change the existing topography of the site substantially, the character, color, and landforms of the setting would be similar to existing conditions. Where visible, the Project-related change would not substantially alter the visual character or quality of the area; rather Alternative 1 would result in visual conditions that are similar to existing conditions, but improved by the establishment of more natural looking features and removal of trash and debris that is currently located on the site." Further, an analysis of Key Observation Points presented in Draft EIS/EIR Section 3.2 found that although the Project would alter the topography of the site, the changes to topography would not block or impair views of a scenic vista. Although restoration activities in Area C would result in changes to the topography of the area, these changes would result in more natural looking conditions and features.

Similar to the Project, Alternative 2 would create upland habitat areas in Area C that would obscure distant views of Playa Vista, but the topographic changes would not obscure views of scenic vistas or degrade existing visual quality. Alternative 3 would alter the topography of Area A, but would not obstruct or affect scenic vistas. As a result, although the Project and Alternatives 2 and 3 would result in changes to the





- Project Site topography, such changes would introduce more natural features to the Project Site and would not result in any changes to scenic vistas.
- O1-6 The commenter's preference for restoring the Ballona Reserve by removing non-native plants and planting native ones is consistent with restoration as proposed under each of the restoration alternatives. The use of redistributed soil for the restoration of Area C is necessary to create restored and enhanced upland habitat where native vegetation may be reintroduced and helps balance soil onsite with offsite disposal. Regarding the use of mechanized equipment versus restoration by hand, see General Response 3, *Alternatives* (Final EIR Section 2.2.3.4), which addresses Alternative 5 and other alternatives that were initially considered, but not carried forward for more detailed review.
- O1-7 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.5), which addresses multiple comments concerning the ball fields within the Ballona Reserve.
- O1-8 See Response H20-1, which distinguishes the Oxford Lagoon project from the Ballona Wetlands Restoration Project. The commenter's dislike of the design of the Oxford Lagoon project is acknowledged, but does not inform CDFW's consideration of the impacts of the proposed restoration within the Ballona Reserve.
- As described in Draft EIS/EIR Section 2.2.2.3, *Alternative 1: Public Access Visitor Facilities*, lighting for security and safety purposes would be minimal, would be shielded and directed downward, would provide only enough illumination for security purposes, and would be focused away from adjacent, sensitive habitats and residences. The commenter's suggestions regarding path and paving designs have been included in the record, where they will be available for consideration as part of CDFW's decision-making processes. See Final EIR Section 2.1.1, *Input Received*.
- O1-9 The commenter's suggestions regarding materials used for bike path construction are acknowledged and have been included in the record, where they may be considered in future refinements of the preliminary design. The Preliminary Design Report is included in Draft EIS/EIR Appendix B1. CDFW acknowledges that the priority expressed in this comment is appropriately placed: proposed public access and visitor amenities are a secondary focus of the Project and other restoration alternatives. See CEQA Project Objective 4 (Draft EIS/EIR Section 1.1.2), which is to "Develop and enhance wildlife dependent uses and secondary compatible on-site public access for recreation and educational activities."
- O1-10 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.3), regarding the existing location and proposed removal of SoCalGas Company infrastructure from within the Ballona Reserve.
- O1-11 As explained in Response O1-9 and stated in Draft EIS/EIR Section 1.1.2, CEQA Project Objective 4 is to "Develop and enhance wildlife dependent uses and secondary compatible on-site public access for recreation and educational activities."



CDFW previously has issued reminders to those who visit the Ballona Reserve to be mindful of the site's specific rules and regulations.<sup>54</sup> Under existing (baseline) conditions, CDFW limits public access to the Ballona Reserve “due to health, safety and resource concerns.”<sup>55</sup> Further, “CDFW is working to address the onsite criminal activity, including drugs, as well as homeless encampments and their related issues.”<sup>56</sup> This is consistent with the summary of Alternative 4 (the No Action/No Project Alternative) in Draft EIS/EIR Table 2-1c: “CDFW would continue to remove trash and debris, remove homeless encampments, and monitor and enforce other unauthorized or illegal activities.” Draft EIS/EIR Section 2.2.2.7, under the heading “Current and Ongoing Law Enforcement Activities,” provides the following elaboration: “Transient encampments have been encountered in the Ballona Reserve over time. Typically, these encampments are identified by CDFW and are removed by local law enforcement. Once restoration is complete, it is possible that the homeless could try to establish these encampments once again in the Ballona Reserve. If this should occur, CDFW will address these ongoing illegal activities as they have in the past.” CDFW's enforcement activities within the Ballona Reserve would continue whether or not one of the restoration alternatives is approved.

O1-12 See Response O1-11.

O1-13 Receipt of these photographs of trash accumulated within Ballona Creek under existing (baseline) conditions is acknowledged, but the photographs do not inform CDFW's consideration of the potential impacts of the proposed restoration. See Final EIR Section 2.1.1, *Input Received*.

O1-14 See Response O1-13.

O1-15 See Response O1-9, emphasizing wetland restoration priorities over public access amenities, and Response O1-11 regarding law enforcement within the Ballona Reserve. Further, according to state law (14 CCR §630), CDFW is charged with the protection and maintenance of designated ecological reserves. This responsibility includes enforcing rules relating to public access and prohibiting the feeding of wildlife; operation of motorized vehicles outside of designated areas; disturbance of bird nests; release of any fish or animal; ignition of any fire, fireworks, or other explosive or incendiary device; disturbance of habitat; and alteration of the landscape or removal of vegetation. The preference to preclude public access from the wetlands is acknowledged; however, in light of existing law enforcement authority, CDFW, as permit applicant, believes that secondary public access that is compatible with wetland restoration priorities can be accommodated.

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<sup>54</sup> CDFW, 2014. CDFW Urges Californians to Be Mindful of Property Rules on Ballona Wetlands Ecological Reserve. Available online: <https://cdfgnews.wordpress.com/tag/ballona-wetlands-ecological-reserve/>. October 1, 2014.

<sup>55</sup> Id.

<sup>56</sup> Id.



- O1-16 The Project and Alternative 2 are consistent with Fish and Game Code Sections 1580–1587 because they would enhance habitat within the Ballona Reserve to support sensitive plants, wildlife, and habitat; and provide a measure of resilience to sea-level rise. As described in Draft EIS/EIR Section ES.3.2, the first CEQA objective is to restore, enhance, and create estuarine and associated habitats that support a range of habitat formations and functions, including multiple habitat types within the Ballona Reserve, to create a regionally important wetland area. Objective 1 goes on to explain that these habitats are to be self-sustaining (by allowing for adaptation to sea-level rise) and to sustain multiple levels of biodiversity. As described in Draft EIS/EIR Section ES.4.1, the Project and Alternative 2 are substantially similar, would enhance freshwater conditions, and enhance physical and biological functions within the Project Site. As analyzed on a resource-by-resource basis throughout the Draft EIS/EIR, the Project and Alternative 2 would provide many long-term beneficial effects for species and their habitats.
- O1-17 The commenter’s disagreement with the conclusion reached in the Draft EIS/EIR is acknowledged. However, the analysis presented in Draft EIS/EIR Section 3.2 demonstrated that (based on the key elements of visual quality: form, line, and color) a change relative to the existing (baseline) conditions related to increased visitorship would not change any of the above mentioned key visual elements. Additionally, an increase in the number of visitors to the Ballona Reserve would not block or impair a scenic vista or view. Increased public access would make existing and enhanced scenic vistas and views more accessible to a broader range of the public. See Response O1-11 regarding the prioritization of the development and enhancement of wildlife dependent uses and secondary compatible on-site public access and trash removal efforts. See also Draft EIS/EIR Section 2.2.2.3, regarding the design of the Project’s proposed public access components with sensitivity to habitats; Section 3.4.6, which analyzes direct and indirect impacts on species and habitats resulting from increased human activity, and Section 3.4.7, which analyzes potential cumulative impacts to species and habitats from increased human activity.
- O1-18 As noted in Response O1-17, potential direct and indirect impacts to habitat and special-status wildlife species are addressed in Draft EIS/EIR Section 3.4.6. Species impacts would be avoided and minimized through implementation of measures such as Mitigation Measure BIO-1b-ii (Biological Monitoring), which requires disturbance of habitat and special-status species within and adjacent to work areas are avoided to the extent practicable, as well as monitoring and relocation of native wildlife encountered. Also as noted above, and as identified in Draft EIS/EIR Section ES.3.1, one of the primary purposes of the Project is to restore ecological functions and services, which would be beneficial to a number of native wildlife species.
- O1-19 The potential for the restoration alternatives to generate objectionable odors (including odors generated from wetland and aquatic habitats) was analyzed in Draft EIS/EIR Section 3.3, *Air Quality*, under threshold AQ-5. Each of the alternatives would result in the restoration of wetland and upland habitats, which can generate



- odors from natural processes such as organic decomposition. The analysis presented in Section 3.3 determined that any odors generated by the Project or alternatives would be similar in origin and magnitude to odors generated under existing conditions.
- O1-20      Upon review of the figures relied upon in the Draft EIS/EIR, CDFW concluded that the representation of the Ballona Reserve boundaries in the figures is clear. Any changes to the figures to emphasize this boundary would not provide information essential to an adequate impact assessment, especially since the Project Site is not identical with the boundary of the Ballona Reserve.
- O1-21      The Traffic Study included in Draft EIS/EIR Appendix H addresses parking in the context of the Project and alternatives; Draft EIS/EIR Section 3.12 analyzes impacts of the Project's proposed parking-related changes. See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.4), which addresses multiple comments regarding parking facilities within the Ballona Reserve.
- O1-22      See Response O1-21, explaining why the Lead Agencies have elected not to prepare a new parking study.



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**From:** Rex Frankel <rexfrankel@yahoo.com>  
**Sent:** Tuesday, November 14, 2017 11:12 AM  
**To:** Richard Brody  
**Subject:** Fw: Meeting to discuss Ballona restoration issues

Richard,

here is the text of my speech to the November 8th hearing on the BWRP:

BALLONA ECOSYSTEM EDUCATION PROJECT, President Rex Frankel, 11/8/2017

A Project of the Progressive Resource Center, 310-7380861

Of all the alternatives, if #3 eliminated the dredging of Parcel A and featured historically accurate small creeks in it, there would be something I could endorse. Unfortunately, the current Alternatives 1, 2 and 3 are intolerable and are not restorations by any credible standard. I O2-1

My message to you is this: YOUR PLAN SIMPLY SWITCHES THE LOCATIONS OF THE PARCEL B WETLANDS AND THE PARCEL A UPLANDS. THIS SWITCHEROO IS A HUGE WASTE OF OUR MONEY. I O2-2

RESTORE THE BALLONA WETLANDS...WHERE THEY ARE NOW.

RESTORE THE BALLONA UPLANDS...WHERE THEY ARE NOW.

YOU DON'T NEED TO DESTROY BALLONA IN ORDER TO SAVE IT I O2-2

THERE ARE MANY LEGAL DEFICIENCIES IN THIS DRAFT EIR. I O2-3

YOUR PROJECT VIOLATES THE COASTAL ACT. Because it's not a restoration and that's all the Coastal Act allows. I O2-4

YOUR PROJECT VIOLATES THE U.S. CLEAN WATER ACT: because it floods the wetlands with polluted street runoff, with no plan to clean it up. It is illegal to degrade the water quality in federally delineated wetlands, which is what the Ballona Wetlands are.

O2-5

YOUR PROJECT ALSO VIOLATES CEQA, in that it fails to include or analyze an essential part of the project, which is the Clean Water Act-mandated street runoff cleanup plan that must be implemented before you can tear down the levees and flood the wetlands with water from Ballona Creek.

You have no plan to clean up 99% of the flow of Ballona Creek (which comes on rainy days), no EIR, and no analysis of its impacts or whether it will ever happen.

O2-6

The only plan that exists is to clean up flows in the dry season, which is not when most of the pollution and trash flows down the creek. This plan will mostly dry up the creek in the dry season by pumping three quarters of creek flows to Hyperion which will dump it in the ocean. A WASTE. Then your own EIR says it will be too difficult to provide freshwater to the wetlands, so you dismiss all freshwater alternatives as "MECHANIZED" OR HIGH MAINTENANCE. But that problem of lack of freshwater is created by your partners in the Wetlands restoration project LA City's Sanitation Department which chairs the SMBRC, which created the Bay Foundation, and the LA County Flood Control District, BY THEIR "MECHANICALLY" DRYING OUT BALLONA CREEK during most of the year. (As stated in their Ballona Creek Bacteria TMDL Project DEIR released August 2017, CA State Clearinghouse number 2017021047)

O2-7

So you dismiss reasonable alternatives by using a "straw man" argument.

YOU CAN FIX ALL THESE LEGAL VIOLATIONS THIS WAY:

O2-8

give us a historically accurate project, thus it will fit the definition of "restoration" and comply with the Coastal Act.

Don't flood our wetlands with polluted cruddy Ballona Creek stormwater which may never be cleaned up. INSTEAD: Pipe the clean flows during the dry season from the new Ballona Creek dry season treatment plant in Culver City to restore the historical freshwater marshes of the Ballona Wetlands.

Because you won't be flooding the wetlands with pollution, you won't violate the US Clean Water Act. Because upstream polluted stormwater will not flow into the Ballona Wetlands, an upstream rainy season creek water cleanup plan is not an essential part of your project, thus, you will then not violate CEQA by deferring analysis of what is no longer an essential part of your project.

O2-9

Finally, by leaving most of the land at Ballona where it is, (leaving the wetlands where they are now, leaving the uplands where they are now), you will avoid destroying thousand year old archeological

O2-10

sites or desecrating graves as the Playa Vista developer discovered. You will avoid evicting the wildlife while engineering firms and their friends "Heal Their Wallets" at our expense.

↑ O2-10  
cont.

Please listen to the groups who saved over 600 acres when others were willing to let it be paved. This current plan is not "Bringing Back Ballona". Let's actually restore Ballona, not turn it into something it never was.

↑ O2-11

Rex Frankel

6038 west 75<sup>th</sup> street

Los Angeles, CA 90045

[rexfrankel@yahoo.com](mailto:rexfrankel@yahoo.com)

310-7380861

----- Forwarded Message -----

**From:** Rex Frankel <rexfrankel@yahoo.com>

**To:** richard.brody@wildlife.ca.gov <richard.brody@wildlife.ca.gov>

**Sent:** Thursday, November 9, 2017, 1:03:58 PM PST

**Subject:** Meeting to discuss Ballona restoration issues

Hi, Richard,

Do you think it would be productive to set up a meeting with you and other DFW staff to talk about my concerns expressed last night?

If so, please email me or give me a call or text at 310 7380861.

Thanks,  
Rex Frankel

[Sent from Yahoo Mail on Android](#)

---

**From:** Rex Frankel <rexfrankel@yahoo.com>  
**Sent:** Tuesday, November 14, 2017 11:52 AM  
**To:** Richard Brody  
**Subject:** Fw: Meeting to discuss Ballona restoration issues

by the way, the elevation of the Ballona Creek TMDL facility on Jefferson Blvd is 67 feet and Parcel C at its east end is 23 feet above sea level.

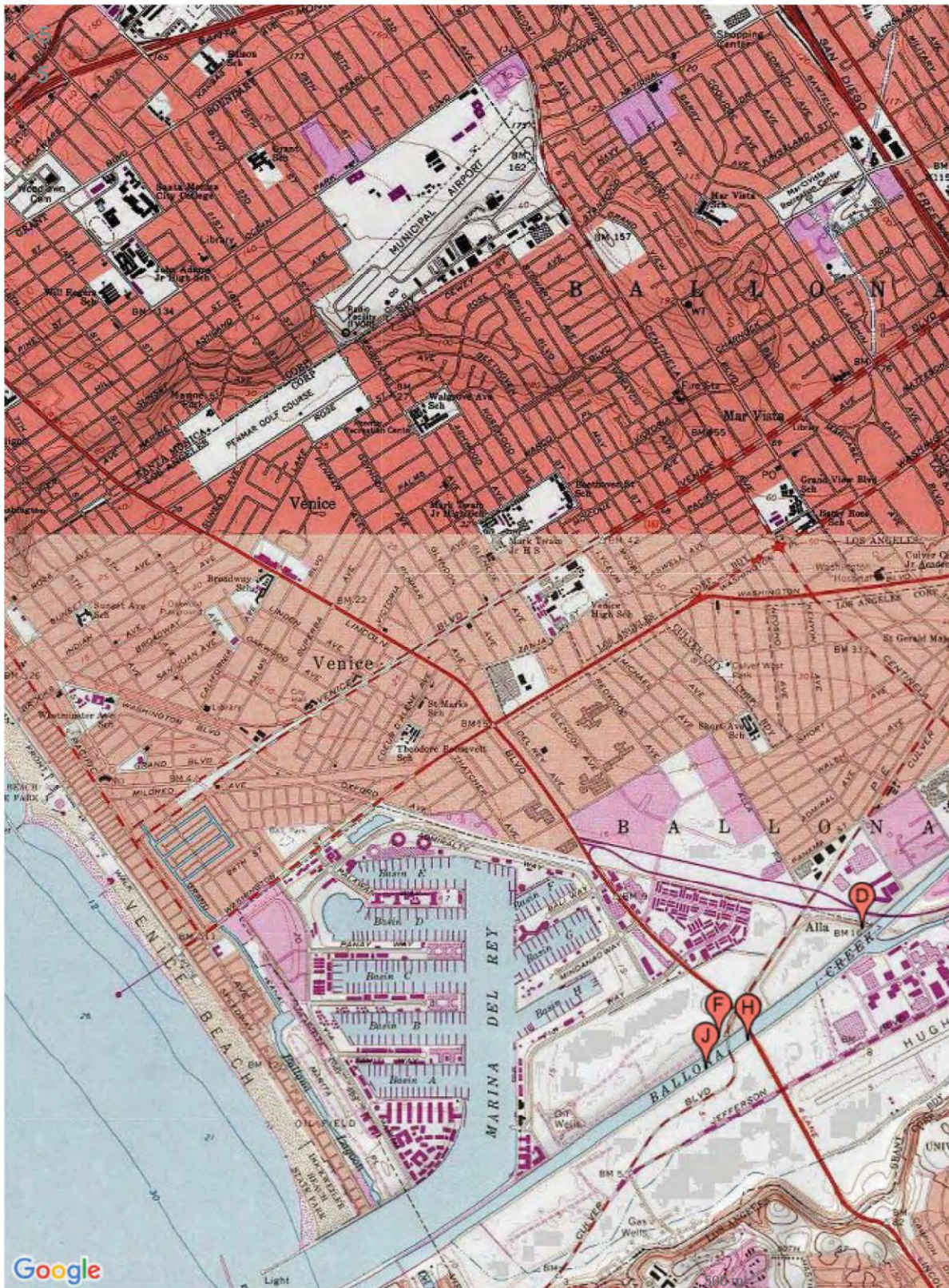
Also, here is a map with GPS coordinates of the TMDL facility and 4 suggested entry points for freshwater into the BWRP.

<http://mapper.acme.com/?ll=33.98664,-118.41160&z=14&t T&marker0=33.97457%2C-118.43413%2Cunnamed&marker1=34.01109%2C-118.39098%2C1.2%20km%20SxSE%20of%20Culver%20City%20CA&marker2=33.97297%2C-118.43494%2Cunnamed&marker3=33.98000%2C-118.42547%2C5.3%20km%20SxSW%20of%20Culver%20City%20CA&marker4=33.97440%2C-118.43238%2C6.3%20km%20NxNW%20of%20EI%20Segundo%20CA>

O2-12

---Rex Frankel





O2-13





***BALLONA ECOSYSTEM EDUCATION PROJECT***  
***1122 Oak Street, Santa Monica, CA. 90405***

---

January 29, 2018

RECEIVED

FEB 02 2018

DFW Director's Office

Bonnie L. Rogers  
Senior Project Manager / Ecologist  
L.A. and San Bernardino Counties Section  
North Coast Branch  
Regulatory Division  
U.S. Army Corps of Engineers  
Los Angeles District, Regulatory Division  
ATTN: SPL-2010-01155 (Bonnie Rogers)  
915 Wilshire Blvd., Suite 930  
Los Angeles, CA 90017-3401

Colonel Kirk E. Gibbs  
U.S. Army Corps of Engineers  
915 Wilshire Blvd.  
Los Angeles, CA 90017-3401

Richard Brody, California Dept. of Fish & Wildlife  
c/o ESA (jas)  
550 Kearny St., Suite 800  
San Francisco, CA 94108

Director Charlton H. Bonham  
California Dept. of Fish & Wildlife  
1416 9<sup>th</sup> St., 12<sup>th</sup> Floor  
Sacramento, CA 95814

RE: Draft EIR Comment Deadline for Proposed Ballona Restoration Plan

Dear Ms. Rogers, Mr. Gibbs, Mr. Brody, Mr. Bonham:

We are writing this letter to you to ask that you give an extension until Saturday, March 24, 2018 to respond to the Draft EIR/EIS on the Ballona Wetlands Ecological Reserve proposed restoration plan.

The reason this extension is needed is that I have talked to many citizens that want to comment on it, but it is virtually impossible to do so with a DEIR of 8,000

O2-14



K. Tokey

pages. At first the public was given 45 days to comment on it, but that was way too short. We asked for an extension until March 24, 2018, but were only given until February 5, and much of this time was over the holiday season. The proponents of the plan have taken over 10 years to write up the document.

WHY CAN'T THE PUBLIC HAVE A DECENT AMOUNT OF TIME TO READ, ANALYZE AND COMMENT ON IT? ONLY ABOUT 4 MONTHS IS NOT ENOUGH.

Citizens have been volunteering over 30 years to save, acquire and protect this extremely important fresh water coastal wetland. Over 95% of our coastal wetlands on the California coast have already been destroyed.

PLEASE GRANT US AN EXTENSION UNTIL AT LEAST MARCH 24, 2018.

Thank you,



Kathy Knight, Project Manager  
Ballona Ecosystem Education Project  
(310) 450-5961  
kathyknight66@gmail.com

*ALSO SENT VIA EMAIL*

O2-14  
cont.



***BALLONA ECOSYSTEM EDUCATION PROJECT***  
***1122 Oak Street, Santa Monica, CA. 90405***

---

February 2, 2018

TO:

Bonnie L. Rogers, Senior Project Manager/Ecologist  
U.S. Army Corps of Engineers  
915 Wilshire Blvd., Suite 930  
Los Angeles, CA 90017-3401

Richard Brody, California Dept. of Fish & Wildlife  
c/o ESA  
550 Kearny St., Suite 800  
San Francisco, CA 94108

FROM: Kathy Knight, Ballona Ecosystem Education Project (B.E.E.P.)  
[kathyknight66@gmail.com](mailto:kathyknight66@gmail.com) (310) 613-1175

Comments Re: Draft EIR/EIS for the Ballona Wetlands Ecological Reserve Restoration

1. This Draft EIR does NOT FULFILL the purpose of the California Environmental Quality Act (CEQA) as a document that helps the public understand what this project is, and the preferred alternative. It does not fulfill it for many reasons including:

O2-15

a. It is approximately 8,000 pages long, which is extremely and unusually long of a document to explain a project. In addition to this extremely long document, the public was only given about 45 days to read, analyze and comment on it. Whereas, the California Department of Fish & Wildlife (CDFW) and the United States Army Corps of Engineers (ACE) took over 10 years to put the document together. After protests to extend the Comment Period to at least March 24th, CDFW and ACE only extended it to February 5th, which included the holiday season. Citizens are STILL asking for an extension to at least March 24th.

O2-16

b. Not only is it extremely long, but it does not clearly give the public a Preferred Alternative, so they can focus their comments on that.

Instead they say on pages ES1 and 2 that "Use of the term "Project" does not in way indicate or imply the Corps' endorsement of the Project",

and that the lead agencies do not have a preference for Alternative 1, even though Alternative 1 is called the "Proposed Action." This is very confusing for the public.

O2-17

c. Page ES 2 says the Ballona Wetlands are very degraded. What created this problem is in the process of being solved. The wetlands are having a hard time due to drains that Playa Vista put into the wetlands 20 years ago, the fact that Playa Vista is pulling out about 650,000 gallons of water a day from underneath their massive development across the street, and not sending it back to the full area as promised, and due to an extended drought. What is needed is just a system to bring fresh water back to this fresh water seasonal wetland. B.E.E.P. has submitted a document describing how fresh water from various sources can be brought back to the BWER.

O2-18



On December 14, 2017 the California Coastal Commission voted unanimously that these illegal drains need to be removed. So there needs to be a new study done in about 4-5 years showing the effect of finally removing these drains BEFORE a restoration plan is proposed or approved. The current plan is projected to cost close to \$200 million in tax payer funds, whereas if fresh water is returned to the wetlands, it could cost MUCH LESS of scarce taxpayer funds. The money saved could go towards a fund for CDFW for oversight of the Reserve.

O2-19

O2-20

d. The pictures shown of the proposed Restoration, such as on the cover page, DO NOT SHOW the 20' high concrete and dirt walls that are proposed around much of the land. This view of the proposal is very misleading. Most of the citizens we have talked to did not realize this would occur from the pictures they saw. Any proposed version of a restoration should be clear and accurate for the public.

O2-21

2. This Draft EIR has incorrect information that is leading to very incorrect conclusions regarding the current status of the site.

a. Page ES-3 and ES -4 Area A - 2.8 to 3.5 million cubic yards of fill was NOT dumped on it in the 1950s, "transforming what had been wetlands abundant with fish and waterfowl into upland and degraded wetlands." The research that has been done shows that most of the fill to dredge Marina Del Rey was used to build up dirt sites in Marina Del Rey so that they could build large developments on them. Trucks that had small amounts of dredging dirt left over would dump it on Area A to empty their trucks, leading to only about 6 feet of dirt built up along Fiji Way.

O2-22

Also Area A is a very special part of the Tongva State Registered Sacred Site, and as such it should be respected and left as much as possible in its current state.

When Playa Vista was built they did not respect the Tongva burial sites there, and unearthed many burials, leaving them for long times in buckets.

It was one of the worst desecrations of an Indigenous people's burial site ever in California.

O2-23

It is extremely important that we the public respect the Tongva indigenous people on this remaining Ballona Wetland ecosystem. They have lived here for 10,000 years and took very good care of the land, leaving it as a treasure for future generations. Unfortunately, most of the Tongva were killed through weapons and diseases that European and Mexican settlers brought with them.

b. The Ballona Wetlands have been fresh water seasonal wetlands for at least the past 200 years.

This is very important due to the fact that over 95% of California's coastal wetlands have been destroyed by bulldozing and development, and most have been changed into salt water wetlands. Fresh water seasonal wetlands are even rarer on our coast, and need to be preserved for wildlife on the Pacific flyway such as birds and Monarch butterflies and other forms of life, such as frogs, reptiles, insects, etc.

O2-24

So on page ES-7 under ES.3.1 if the purpose under NEPA is to RESTORE ecological function and services within the Ballona Reserve, then the restoration needs to be for a fresh water seasonal wetlands, NOT an estuarine salt water wetland, which did not exist in any form on the site.

O2-25

3. Cost and Funding of this Proposed Restoration Project

How much will this proposed Destruction/Creation Plan cost? On ES-6 it states that In 2004, California State Coastal Conservancy (SCC) "approved state bonds funds to "revitalize and restore the Ballona Reserve. How much money was approved, and who was it given to?  
How much money has been spent since the first restoration process began after the 2003 purchase and where has it come from, and what has it been spent on?

O2-26

Who is keeping track of these costs, and where do we go to see an accounting?

4. We Need INDEPENDENT Studies for a Proposed Restoration for the BWER  
Page ES-8, Section ES.3.2

O2-27

It is crucial that any studies being done for this restoration are done by independent companies that do not have past and current connections to the Playa Vista development. There is a history of consultants for Playa Vista not agreeing with the public that there was an oil field gas leak on the Playa Vista site. It took citizens over 6 years to get an INDEPENDENT study of the gas. The independent study showed that the citizens were correct, there was a very serious oilfield gas leak. The first test well blew out for 24 hours. And Playa Vista had to install a gas mitigation system.

O2-28

This is important because many people who look at this proposed plan are shocked at the 20 feet high piles of concrete and dirt that will be around most of the property, cutting it off from the view of most of the public. It seems to many people to be a flood control project for the Playa Vista developers who did not do their own flood control project. But their flood control project should not be done on public land at the public's expense.

O2-29

O2-30

Also Southern California Gas Co. will get their wells capped and slant wells installed at taxpayer's expense if this proposal is approved. We think the Gas Co. must pay for this.

O2-31

Psomas is one of the companies involved in the Biology studies (Biology D1-1, D-1-2, D1-3), but they have a close connection to Playa Vista. They worked for the Playa Vista developers in Phase I of the Playa Vista development built on the Ballona wetlands east of Lincoln Blvd. They also have a board member on Friends of Ballona Wetlands (FBW) that has close ties to the Playa Vista development and to the Southern California Gas Company (see list of FBW Board members at [www.ballonafriends.org](http://www.ballonafriends.org).)

O2-32

From [Psomas.com](http://Psomas.com) website:

## Preservation and Restoration of the Ballona Wetlands

The Playa Vista property spans more than 1,087 acres at the western edge of Los Angeles on the former site of the Hughes Aircraft Plant. The master-planned community includes a mix of more than 3,000 residential housing units ranging from affordable to luxury and office and commercial space. A major component is The Campus at Playa Vista, an entertainment, new media and technology office complex with sound stages and production facilities. Playa Vista also features parks and recreational facilities, all next to a restored wetland and wildlife preserve.

O2-33

Psomas played a substantial role in securing entitlements for both Phase One and Two. Civil engineering services included grading, street and infrastructure design. In addition, Psomas aided in the development and implementation of a number of highly-complex transportation solutions for this new community.

O2-33  
cont.

What are the money connections between the consultants on this DEIR/EIS, the Bay Foundation that is promoting it, Playa Capital, LLC, the Southern California Gas Company, Friends of Ballona Wetlands, The Ballona Conservancy, Heal the Bay and any other groups supporting this project? The public needs to know this information for full disclosure on this massive, highly expensive project that will cause a destruction of the fresh water wetland and replace it with a salt water bay. Thank you.

The Science Advisory Committee did not have alot of public involvement from the many citizens who want a non-destructive restoration of this fresh water wetlands.

O2-34

5. The Ballona Wetlands are historically a fresh water seasonal wetland. THAT is what they should be restored to.

But on Pg ES-9 the goal stated is to change Ballona into an estuarine and associated habitat through a large tidally inundated system.

How can they propose that when that is not what it is?

O2-35

We are opposed to Alternatives 1,2, and 3.

O2-36

#### Chapter 2 - Description of Alternatives

2.2.2 Alternative 1: Full Tidal Restoration/Proposed Action is for "predominately estuarine conditions" to "benefit the adjacent marine environment".

Would remove levees on a portion of Ballona Creek. "Land north of Ballona Creek would be lowered to create a connected floodplain."

Partially earthen levees would "surround the Ballona Reserve" and "protect surrounding development from potential flooding from Ballona Creek."

O2-37

2.2.3 Alternative 3 - no flood risk management berms and Ballona Creek channel would not be re-configured.

2.2.4 Page ES - 14 ES.4.4 Alternative 4 - Flood gates permanently closed. "No Project Alternative Ballona Reserve would remain closed to the public except as authorized by CDFW."

WE SUPPORT FULLY STUDIED ALTERNATIVES 10 & 11 rather than they being dismissed.

2.3.6 Alternative 10 Manipulated Wetlands Alternation pg. 2-231

2.3.7 Alternative 11 19th Century Wetlands pg. 2-234

O2-38

Alternatives 10 and 11 should be FULLY STUDIED, as this is a fresh water wetlands system.

6. Conclusions are drawn that are VERY INAPPROPRIATE for an Ecological Reserve, which is what this land has been saved as.

O2-39

a. A proposed parking lot (Section H - Traffic page 20) in Area A across from a large commercial shopping center that wants to re-develop their site and would need more parking for its employees and customers, would be 3 stories high and provide 302 parking spaces for the public. They say it is for the public to enjoy the wetlands, but there would not be this many parking spaces needed for that and it could impact the bird population, especially if there are any windows high up, as well as add development to an already limited reserve. Where was this type of impact studied?

O2-40

Neither the proposed parking structure nor the existing parking lots in Area A are compatible with the purpose of an ecological reserve and a new analysis should be conducted to measure the ecological benefit of converting the existing paved areas to much needed wildlife habitat. Any parking areas in the ecological reserve should be based on a thorough parking needs analysis that factors in all existing parking alternatives and which is consistent with the lead agency's practices at other ecological reserves across the state.

O2-41

The main description of the parking garage is on Page 216 under section 2.2.2.3 (Alt 1 Public Access and Visitor Facilities) in Chapter 2.

I support other comments submitted by Rex Frankel, President of Ballona Ecosystem Education Project; Grassroots Coalition, the Sierra Club, and TATTN.

O2-42

I have submitted photographs through the mail to show the wonderful wildlife that has lived on this land recently, until drains were put in. It shows the value of this land for the wildlife when the fresh water is returned.

O2-43

Thank you.

*ENCLOSED 16 PHOTOS / GRAPHICS RELATING TO THE  
BALLONA WETLANDS ECOLOGICAL RESERVE*





O2-44

Photo By Rob Kinslow 1995

View towards the Ballona Wetlands Ecosystem  
Los Angeles, California



**Why Area A of the Ballona Wetlands Ecological Reserve needs to stay at higher elevation levels....**

1. The Great Blue Heron rookery RELIES on the significant small mammal and reptile population that resides in the upland prairie grasslands and coastal scrub of Area A. Without that 139 acres so close to the Great Blue Heron rookery, the juvenile Herons would have far less to eat, and this rookery would likely collapse.



*Great Blue Heron rookery*

2. There is a rare population of Alkali Barley in Area A.
3. There is a rare population of Lewis' Evening Primrose in Area A.
4. There are significant populations of reptiles in Area A.
5. There are more than 100 native ants and ant-like species in Area A – these are insects that hold the ecosystem together.
6. Cooper's Hawk, Northern Harrier, White-tailed Kite, Loggerhead Shrike – all hunt and feed in Area A. If Area A habitat is lost or altered significantly, it is possible these species would not have sufficient habitat in the remaining parts of Ballona to survive there. Their populations would significantly be diminished at the very least.
7. Endangered Belding's Savannah Sparrows have been observed dispersing and even singing (denotes courtship, possible breeding) in Area A.
8. There ARE delineated wetlands in Area A, including an historical tidal creek that would be destroyed and "moved," and also other seasonal wetlands, even though the land is higher than sea level.
9. It would be foolish to lower coastal land like this and invite the ocean inland in the face of potential sea level rise and predictions for flooding in the area.

*White-tailed Kite*



*Lewis' Evening Primrose*



7.15.14

O2-45

**Endangered & Imperiled Species Documented in Recent Years at the  
Ballona Wetlands Ecological Reserve**

Federal Endangered Species List – [E] = Endangered [T] = Threatened

- 1. Least Bell's Vireo *Vireo bellii pusillus* [E]**  
(resident songbird) nesting



- 2. Coastal California Gnatcatcher *Polioptila californica californica* [T]**  
(migratory songbird) nesting at nearby Playa del Rey Dunes at LAX



- 3. El Segundo Blue Butterfly *Euphilotes battoides allyni* [E]**  
reproducing in dunes at BWER,  
also reproducing in PDR Dunes at LAX



- 4. California Least Tern *Sterna antillarum browni* [E]** (migratory  
shorebird – migrates from Guatemala and southern Mexico; nests on  
nearby Venice Beach in specially fenced preserve; feeds on fish in the  
shallow water sloughs and in Ballona Creek; mating documented on salt pannes)



- 5. California Sea-Lite – *Suaeda californica* [E]**  
Growing in Area B, south of Ballona Creek



- 6. Western Snowy Plover *Charadrius nivosus nivosus* [T]** –  
nesting at nearby Dockweiler Beach; sheltering at BWER salt panne



- 7. Light-footed Ridgway's Rail (Light-footed Clapper Rail) *Rallus longirostris levipes* – [E]**  
Female for at least last 2 years at freshwater marsh on edge of BWER (land owned by State Lands Commission)



12.9.17- photos by Jonathan Coffin, Don Sterbe List compiled by:

**BALLONA WETLANDS INSTITUTE**  
restoration, research, education, advocacy  
The Voice for Nature on the Los Angeles Coast

**SIERRA CLUB**  
Ballona Wetlands  
Restoration Committee

PAGE 1

O2-46

State of California Endangered Species List - [E] = Endangered [T] = Threatened

1. Belding's Savannah Sparrow *Passerculus sandwichensis beldingi* [E]  
(resident songbird) (nesting)



2. Least Bell's Vireo *Vireo bellii pusillus* [E] (resident songbird) nesting



3. Light-footed Ridgway's Rail (Light-footed Clapper Rail) *Rallus longirostris levipes* – [E]  
female 2 years at freshwater marsh on edge of BWER (land owned by State Lands Commission)



O2-47



**Imperiled Species - Special Status**

Treated as if on endangered species list by state officials due to settlement agreement with CA Native Plant Society or Center for Biological Diversity; listing package submitted for endangered species list: *Species of Special Concern*, or on other special status State of California lists

1. Lewis' Evening-Primrose *Camissoniopsis lewisii*
2. Wandering Skipper Butterfly *Panoquina errans*
3. South Coast Marsh Vole *Microtus californicus stephensi*
4. Silvery Legless Lizard *Anniella stebbinsi*
5. Southern Tarplant *Centromadia parryi* ssp. *australis*
6. Southern California Omate Shrew *Sorex ornatus salicomicus*
7. Grasshopper Sparrow, *Ammodramus savannarum*
8. California Horned Lizard *Phrynosoma blainvillii blainvillii* (Gray)
9. Western Sand Spurrey *Spergularia canadensis*
10. Southern Marsh Harvest Mouse *Reithrodontomys megalotis limicola*
11. Grasshopper Sparrow *Ammodramus savannarum*
12. Cooper's Hawk *Accipiter cooperii*
13. Double-crested Cormorant (breeding) *Phalacrocorax auritus*
14. Oregon Vesper Sparrow *Poocetes graminea affinis*
15. Wigeon Grass (rare SAV) *Ruppia maritima*
16. Spiral Wigeon Grass (rare SAV) *Ruppia cirrhosa*
17. Vernal Barley *Hordeum intercedens*
18. South Coast Branching Phacelia *Phacelia ramosissima*
19. Monarch Butterfly *Danaus plexippus*
20. Orcutt's Yellow Pincushion *Chaenactis glabriuscula* var. *orcuttiana*
21. Slender Arrowgrass *Triglochin concinnum*
22. Ballona Wallflower *Erysimum suffrutescens* (type locality-Ballona)
23. Alkali Barley *Hordeum depressum*
24. Woolly Sea-Lite *Suaeda taxifolia*
25. Slender Salamander (entire pop. Less than 1,000) *Batrachoseps attenuatus attenuatus* (Eschscholtz)
26. Ballona California Kingsnake (special markings) *Lampropeltis getula californiae*
27. Loggerhead Shrike *Lanius ludovicianus*
28. Western Meadowlark *Stumella neglecta*
29. Northern Harrier *Circus cyaneus*
30. Great Blue Heron (breeding) *Ardea herodias*
31. Great Egret (breeding) *Ardea alba*
32. Snowy Egret (breeding) *Egretta thula*
33. Black-crowned Night Heron *Nycticorax nycticorax*
34. Western Pony's-Foot (*Dichondra occidentalis*)
35. Burrowing Owl *Athene cunicularia*
36. Ferruginous Hawk *Buteo regalis*



O2-48

12 & 17- photos by: Jonathan Coffin, Don Szerba. List compiled by:

*Other Noted &/or Protected Species\**

1. **California Brown Pelican** – *Pelecanus occidentalis californicus* - feeds and rests in Ballona Creek channel – de-listed from federal endangered species list in 2009, but still being watched by officials, biologists
2. **American Peregrine Falcon** *Falco peregrinus anatum* – 3 foraging at Ballona in 2017; – de-listed from federal endangered species list in 2009, but still being watched by officials, biologists – CA “FULLY PROTECTED SPECIES”
3. **White-tailed Kite** – *Elaeetus leucurus*
4. resident in the Ballona Valley/nests in nearby neighborhood trees/forages in grasslands at Ballona, has its own law in California – CA “FULLY PROTECTED SPECIES”
5. **Palmer's Goldenbush** - *Eriocameria palmeri* var. *palmeri* – CNPS 1B1 list – State of California: imperiled S2
6. **Numerous Lichens** that have recently been documented and are awaiting protected status.
7. **AND – MANY, MANY** insect and spider species, including numerous native ant populations, dragonflies, damselflies, butterflies and so much more that is not being accounted for or dismissed as “they will come back” – well, these natural heritage species will not all come back – and we are losing them fast, as habitat is destroyed for urbanization and extractive industries

\*Note: The Migratory Bird Treaty Act protects many of the bird species at Ballona not mentioned here or listed under “Other Noted Species.” More than 200 bird species have been documented at the Ballona Wetlands Ecological Reserve.



O2-49

12.9.17- photos by Jonathan Coffin,  
Don Serba, John Rusk

List compiled by:



PAGE 4



(King SNAKE CAUGHT  
IN BULLDOZER)  
AT BALLONA WETLANDS



02-50

WHY WE DON'T WANT BULLDOZING OF BALLONA ECOLOGICAL RESERVE





2016

MONARCHS THAT WERE KILLED WHEN  
LOS ANGELES COUNTY CUT DOWN THEIR  
NON-NATIVE EUCALYPTUS TREE THAT THEY  
WERE USING FOR PROTECTION, AT OXFORD LAGOON  
MARINA DEL REY  
NON-NATIVE PLANTS CAN BE VERY IMPORTANT  
TO LOCAL WILD LIFE

O2-51





O2-52

DESERT COTTONTAIL

- BALLONA WETLANDS -

PARCEL A





O2-53

SKINK

— BALLONA WETLANDS —

AREA A





O2-54

CHECKERED WHIPTAIL  
LIZARD

- BALDWIN WETLANDS -

AREA A



PHOTO BY TAMMARA ANDREWS, PDR

FEBRUARY 2005

FEBRUARY 2005  
US OF PDR

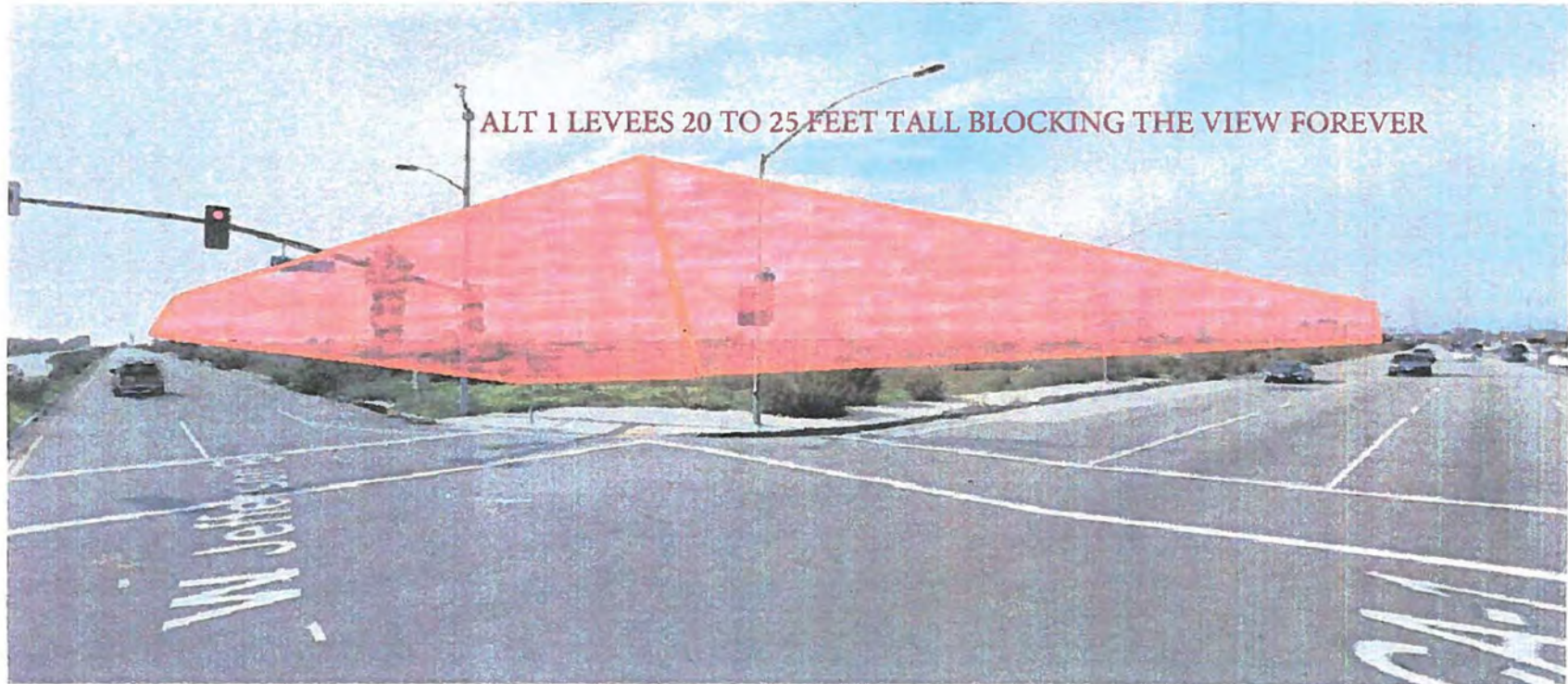
SITE IS WEST OF LINCOLN BLVD  
NORTH OF JEFFERSON & CALVER BLVDs - LOOKING NORTH



02-55

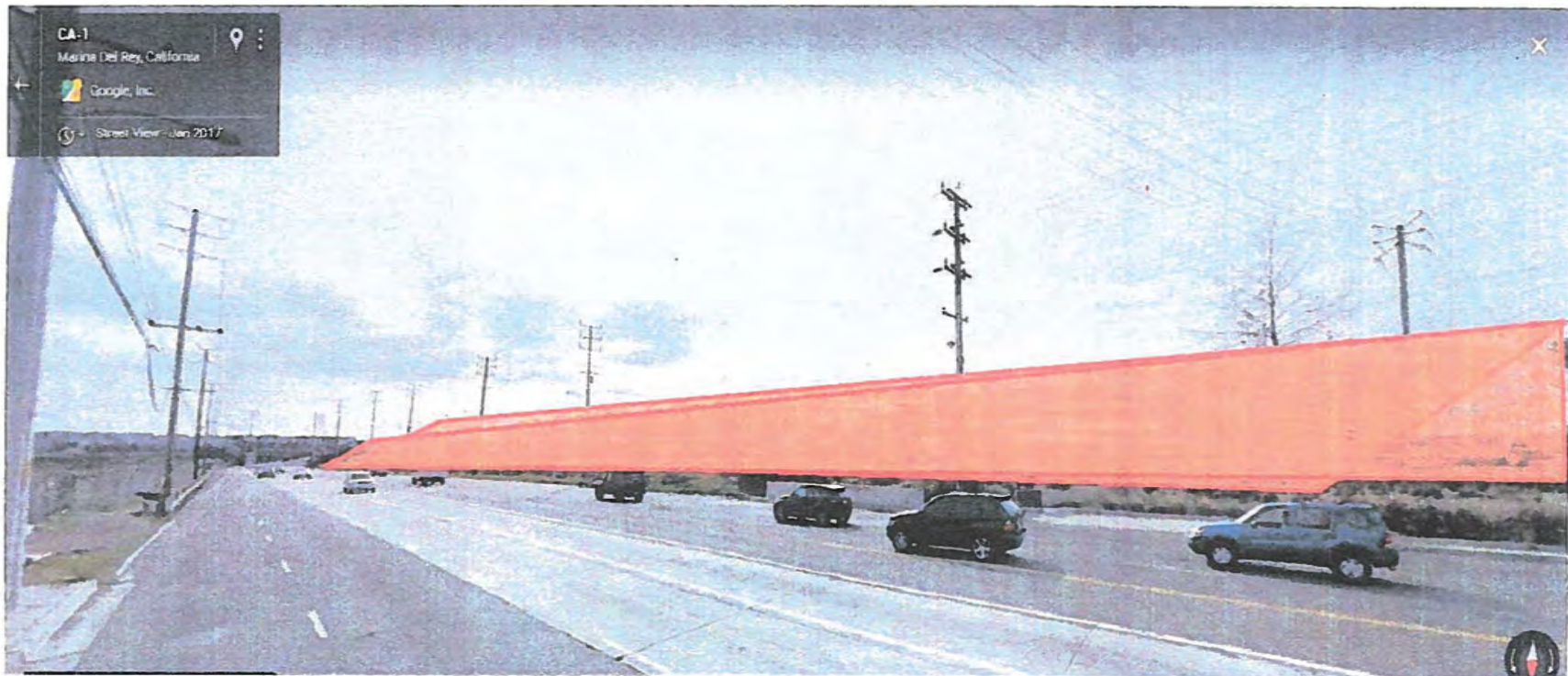
BALLONA WETLANDS ECOLOGICAL RESERVE WHEN IT HAS FRESH WATER





Height of 20' WALLS OF CONCRETE & DIRT PROPOSED FOR BALLONA DEIR  
LINCOLN BLVD & JEFFERSON - NE CORNER

O2-56

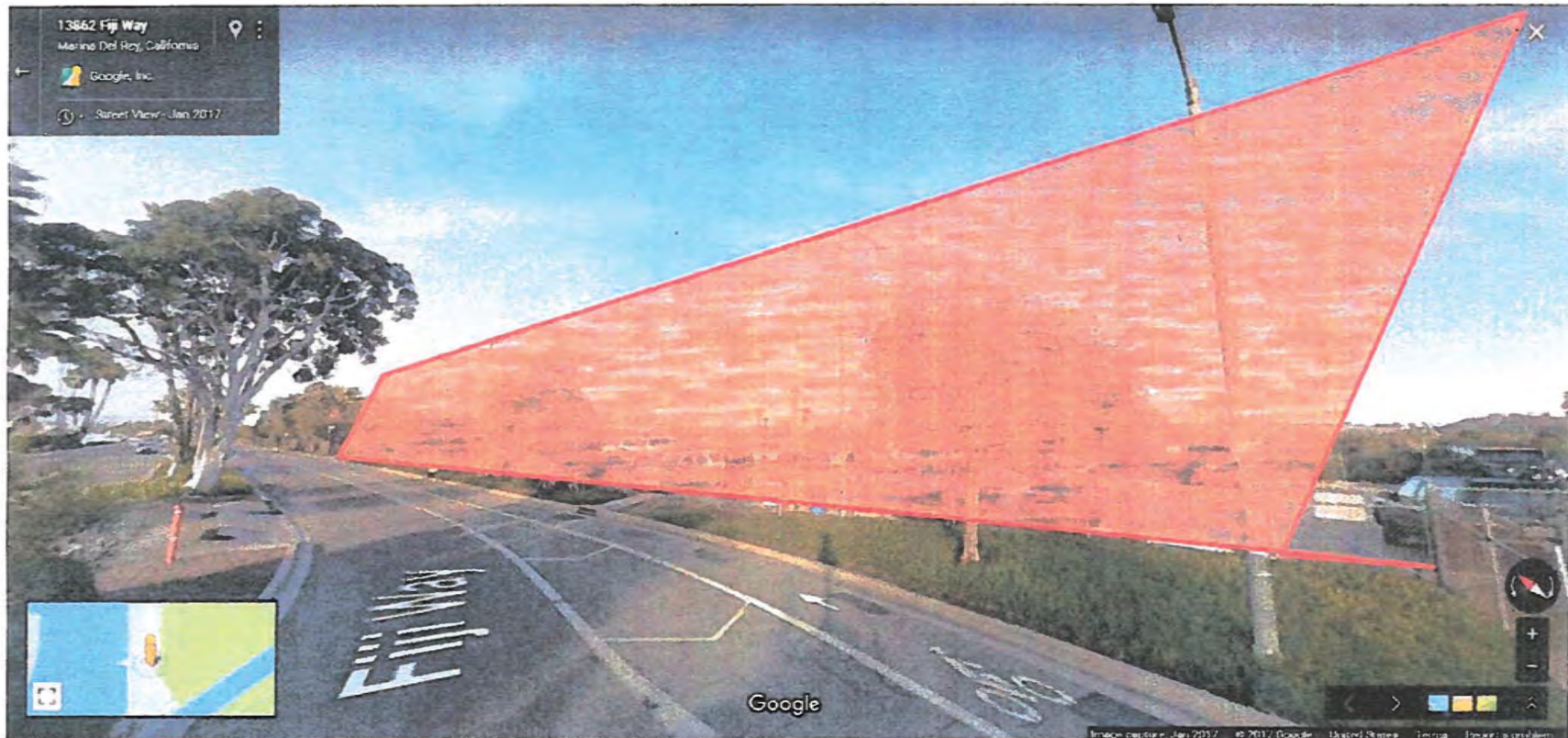


O2-57

VISUAL OF HEIGHT OF 20' WALLS OF CONCRETE & DIRT  
PROPOSED IN DRAFT EIR OF BALLONA WETLANDS ECOLOGICAL  
RESERVE.

LINCOLN BLVD.





O2-58

Height of 20' walls of concrete + dirt for proposed restoration plan  
on Fijo Way, Marina Del Rey



## BWER CHASE PARK NOV 8<sup>th</sup> HEARING – SHORT YOUTUBES

**Jeanette Vosburg: How Can Anyone Say the Ballona Wetlands are 97% Degraded?**

2 minutes <https://youtu.be/y98iwgalrN0>

**Dr. David DeLange: Danger of Tsunami**

2.5 minutes <https://youtu.be/X3dND9f3-kE>

**Dr. Margot Griswold: None of Alternatives Presented Are Restoration**

3.5 minutes <https://youtu.be/vbkAFkx7Q5l>

**Rex Frankel: You Don't Need to Destroy Ballona to Save It!**

5 minutes <https://youtu.be/Alf4YxM8R6Y>

O2-59

### KEY REFERENCES

#### Meet your Wildlife Neighbors

- See Jonathan Coffin's vast photo collection of Ballona Wetlands' wildlife on flickr: [Stonebird](https://www.flickr.com/photos/stonebird/) <https://www.flickr.com/photos/stonebird/>.
- Visit [www.BallonaPhotography.com](http://www.BallonaPhotography.com) to see many of our wildlife neighbors I've been lucky enough to photograph. [Fall Returns to the Ballona Freshwater Marsh](#)
- **Alternative 1 is Flood Control Project, not a restoration.**  
 JohnTommy Rosas explains with overlays on the Ballona Wetlands Ecological Reserve (BWER) how Alternative 1 is not a restoration when you compare how things were in the 1860-1870's. John-Tommy also explains how to restore Area's A and C to fresh water wetlands.
  - TATTN BWER EIS ALTERNATIVE 1 VS Documented Wetlands [https://youtu.be/3\\_BB1VmryiQ](https://youtu.be/3_BB1VmryiQ) 17 minutes 10.29.17
  - JohnTommy Rosas Discussing Many Aspects of the Ballona Wetlands Ecological Reserve Restoration Alternative #1 <https://youtu.be/BA30aXpInDY> 24 Minutes 11.4.17
- **Legal Implications of Draft Report**  
 Rex Frankel, **The Ballona Wetlands Ecological Reserve hasn't been Full Tidal for 2000 years.**
  - [https://youtu.be/l1g\\_ZPa77AE](https://youtu.be/l1g_ZPa77AE) 58 Minutes 10.17.17
  - <https://youtu.be/NiVjksxwafo> (Excerpt 3.5 minutes)
  - **Walter Lamb, Ballona Wetlands Land Trust Lawsuit Update**
  - <https://youtu.be/u15RTV6S8wY> 32 Minutes 4.19.16
- **The Ballona Natural/Original Wetlands.** Travis Longcore, Ph.D., "Implications of Restoration", an explanation of Ballona's opening and closing to the ocean. Full-Tidal is not natural.
  - <https://youtu.be/1viLaZaVhQY> 61 Minutes 8.2.12
- **Who Has Voice & Vote on Ballona Restoration?** Margot Griswold's Talk on Ballona Wetlands Ecological Reserve Restoration & lack of adequate public participation in the process.
  - <https://vimeo.com/182608145> 24 Minutes 8.27.16
- **EIR Feedback, BALLONA WETLANDS:** Demand to see height of proposed levees and depth of dredge. Story Poles (Pipes & Mesh) & 3D Models. <https://vimeo.com/179805132> 1 Minute
- **Fly over of Marina Del Rey, CA and Ballona Wetlands** March 3, 2016 AERIAL.  
<https://youtu.be/PQVHGOZeNEY> 7 Minutes 3.3.16
- **Seven Ballona Wetlands Power Point Presentations** by Patricia McPherson, President of Grassroots Coalition <http://saveballona.org/presidents-presentations.html>

O2-60

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O2-62

O2-63

O2-64

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O2-66

O2-67

I LIVE ON THE BLUFFS OF THE BAIIONA WETLANDS



ACTIVE ICE PLANT FOR ITS HABITAT

PHOTO 1984

BY JAMES GARRET

O2-68





02-69

20' WALLS OF CONCRETE & DIRT ARE NOT  
DEPICTED IN THIS WIDELY USED PICTURE OF THE  
PROPOSED RESTORATION OF THE BALLONA WETLANDS  
ECOLOGICAL RESERVE



HELP SAVE MY HOME!

I LIVE ON THE BLUFFS OF THE BAYLONA WETLANDS



02-70

BURROWING OWL - USING NON-NATIVE ICE PLANT FOR ITS HABITAT

PHOTO 1989 BY JAMES GARRETT



2/22/2018

Friends of Ballona Wetlands



Friends of Ballona Wetlands

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## Board of Directors

- Nancy Edwards (President) joined the Friends Board in July 2013. She retired in April 2011 from Aptium Oncology where she was Director of Information Technology responsible for the implementation of all Financial Systems for 13 years. Prior to her work with Aptium Oncology, Nancy spent 17 years as Director of Business Services at various hospital systems.

Key amongst the many goals she established for her retirement is giving back to the community she loves. Friends of Ballona Wetlands is a natural fit as Nancy and her husband John have a home overlooking the Ballona Wetlands. They have long understood the need to protect and restore this natural wonder. Creating awareness for the conservation and restoration of our natural resources, waterways and wildlife is an important mission. Joining the Friends provides a great opportunity to promote this important cause and become a steward of the Wetlands

Nancy is also a Trustee on the Board of the Natural History Museum and a Board Member of the Westchester Mental Health Guild.

Nancy and her husband John have lived in the El Segundo and Playa Del Rey area for 30 years. She keeps her binoculars trained on the wetlands and scours them daily to see what friends may be flying about. Other interests include cooking, tasting and collecting wine, and travel to locations near and far.

- Dr. Eloise Appel (Vice President) has lived in the Playa del Rey area for over 30 years. She earned a doctorate in educational evaluation and research from UCLA and established an education consulting firm specializing in program evaluation, educational assessment, and professional development. Ms. Appel has conducted evaluation studies at both the local and state level and provided technical assistance and professional development for the US Department of Education. Areas of specialization include early childhood and literacy, family literacy, bilingual education, health



### Did You Know?

How did the native peoples of Ballona utilize the plants in the area?

- The Arroyo Willow was used by the Tongva for relieving pain, much like aspirin is used today.

[http://www.ballonafriends.org/about\\_directors.html](http://www.ballonafriends.org/about_directors.html)

O2-71



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Friends of Ballona Wetlands

- b. Sagebrush leaves were once brewed by the Tongva to help ease childbirth.
  - c. The Tongva used Sea-Blite as flour as well as a dye for basketry.
- volunteer now »

education, and teacher certification program evaluation. Ms. Appel began her career in education as an elementary school teacher.

Recently retired, Ms. Appel enjoys taking walks with her husband Mark along the Ballona Creek Jetty, and is very interested in learning more about the Ballona Wetlands and how she can assist the Friends in furthering their mission. She is an active volunteer with the Hope Street Family Center in downtown LA and serves as the co-chair of their Fund Development Committee. She has also served on the Board of Governors of the Airport Marina Counseling Service non-profit.

- Ruth Lansford (Founder) was raised in Long Island, New York where she lived next to wetlands. She moved to Playa del Rey in the early 1960's where she found she was once more neighbor to a wetland. After heirs of Howard Hughes' estate announced development plans in the wetlands, Ms. Lansford formed the Friends of Ballona Wetlands in 1978. The Friends fought the proposed development but the California Coastal Commission approved it.

Then, in 1984 the Friends, led by a determined Ms. Lansford, filed suit. After more than 6 years in litigation and negotiation, a settlement was reached with the subsequent landowner, (Maguire Thomas) which preserved 340 acres of wetland and surrounding habitat.

The Friends continued to push for more acreage to be saved, and in 2003 the State purchased the remaining Ballona acres west of Lincoln from Playa Vista.

For Ruth Lansford's outstanding efforts over 3 decades to preserve and protect the Ballona Wetlands, in 2006 she won the prestigious National Citizen Planner of the Year award from the American Planning Association (APA), having won the state award in 2005.

- John Gregory (Treasurer) recently retired as an accountant at Sony Pictures Entertainment, and brings to the FBW board thirty years of accounting and finance experience in the entertainment and aerospace industries and in public accounting, where he received his CPA certificate.

At Sony Pictures, he has long been active in LINKS, the company's employee volunteer program, participating in a variety of environmental community service projects such as tree plantings with TreePeople. Mr. Gregory is also on the LINKS Steering Committee, which contributes to the selection, organization, preparation and leadership of the volunteer events.

He was introduced to the Ballona Wetlands and the Friends' mission to champion the restoration and protection of the wetlands through the annual Sony Global Volunteer Day in 2008.

A New Jersey native, Mr. Gregory has fond memories of the marshlands along the Jersey shore, and has long appreciated the wisdom and importance of protecting nature's delicate ecosystems. Accordingly, he became more involved with the Friends, and joined the board in March 2009. Mr. Gregory and his wife Kathy reside in nearby Westchester.

O2-71  
cont.



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Friends of Ballona Wetlands

- Steve Hirai (Secretary) became a member of the Friends' Board in January 2012. Steve is a business development manager for Parsons, a global engineering, construction, technical, and management services firm. He is responsible for business development and for setting the strategy and implementation for successful performance and sustained growth.

Steve has managed and supported a variety of municipal water, wastewater, and energy projects in Southern California for over 20 years, and has been involved in research, design, and construction activities related to the treatment, storage, and conveyance of municipal water and wastewater. He is also knowledgeable about renewable energy projects, having designed multiple large-scale solar generation facilities and directed strategic energy management studies.

Steve is a professional civil engineer, having received his M.S. in Environmental Engineering from UCLA in 1993, and has a B.S. in Civil Engineering from the same university in 1992.

Steve was raised in Westchester and fondly remembers playing in the Ballona Wetlands as a child. He now resides in Culver City, CA with his wife and two children.

- Dr. Kenneth Dial is a professor emeritus in the Division of Biological Sciences at the University of Montana. His research program focuses on the behavior, biomechanics, neural control, ecology and evolution of avian flight. Following a post-doctoral fellowship at Harvard University, Dr. Dial became a professor of biology at the University of Montana in 1988. As a teenager, Ken took a keen interest in both aeronautics (his father was an aeronautical engineer near LAX) and biology (nature's fliers). Dial was founder and acting director of the UM Flight Laboratory as well as director of UM Field Research Station at Fort Missoula. He teaches graduate classes in evolutionary biology of East Africa.

With more than 35 years of experience as a pilot, Ken is currently pilot-owner of a C33 (N53KJ), certified to fly several types of jet aircraft and turbo-props, but prefers backcountry flying into remote airstrips in the Montana-Idaho wilderness in his Cessna Skywagon C185. Ken developed and hosted 26 episodes of "All Bird TV" on the Discovery Channel's Animal Planet. Dial has been a keynote speaker at numerous symposia (including the Society of Experimental Test Pilot's international meetings). Ken recently transitioned from full-time professorial duties at the University of Montana to work on wildlife and land conservation projects in Tanzania, Kenya, southern California and western Montana.

- Dr. Pippa Drennan grew up in South Africa and earned her PhD from University of KwaZulu-Natal with a specialty in mangrove/estuarine biology. She is on the faculty at Loyola Marymount University and teaches plant biology and ecology, frequently involving her LMU students in special projects at Ballona Wetlands. She has served as a botany consultant for the Friends for the past six years and Board Member since 2001. Dr. Drennan also enjoys nature photography and she and her family travel worldwide.
- Lisa Fimiani became an avid bird-watcher while growing up in Buffalo, New York. In 1986 she moved to Los Angeles, where she joined the Domestic Television Sales division of Paramount Pictures.

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In her last position at Paramount she served as vice president of Sales Administration and Program Lineups, and after 18 years with the company left to form her own consulting firm.

She has been a member of the National Audubon Society since living in Buffalo. In June of 2006 Ms. Fimiani stepped down after serving 6 years on the Audubon California Board, and joined the Board of the Los Angeles Audubon Society chapter as treasurer. A Docent at the Ballona Freshwater Marsh since it was formed in 2003, Ms. Fimiani joined the Friends' Board in 2005. She created a native plant design company in 2007. Ms. Fimiani was Executive Director of the Friends from 2009 to 2016, bringing an abundance of knowledge as a local naturalist.

- Susan Gottlieb joined the Friends' Board in August 2007 as an expression of her passionate support for the organization's work at Ballona restoring the dunes where native plants are an essential component to support migrant and resident birds. Ms. Gottlieb partners with her husband, Dan Gottlieb, in an array of projects that support wildlife. Their own native plant garden has been showcased on Huell Howser's show, California's Green and is featured on the Theodore Payne Native Plant Garden Tour since its inception in 2003.

Susan and Dan Gottlieb opened their G2 Gallery on Abbot Kinney Blvd in Venice, CA, March 2008. The mission of G2 Gallery is accomplished by showcasing photographic images of our natural environment by today's most gifted artists and partnering with conservation and educational organizations. In keeping with the Mission of the Gallery, some of the proceeds are donated to the Friends.

- Stephen Groner is the founder of S. Groner Associates, Inc. (SGA) a community relations and social marketing firm. The firm is an eclectic mix of communication professionals and research staff that help local governments, private companies, and non-profits bridge the communications gap with their stakeholders. Stephen received his bachelor's degree in Civil and Environmental Engineering from the University of Wisconsin, Madison and is a California Registered Civil Engineer.

Prior to starting SGA, Stephen worked on environmental issues addressing regional water quality and waste management problems facing the region. Stephen started his career working on technical environmental remediation issues for the County of Los Angeles and slowly shifted his focus to policy and communications issues addressing regional environmental concerns. Stephen also serves on the board of Los Angeles Social Venture Partners a philanthropic organization that invests time and money in non-profit organizations to help build their capacity.

- Jim Kennedy joined the Friends' Board in January 2014. Jim has been a staff member for several local elected officials. In that capacity he has contributed to developing energy and environmental policies and programs. Jim expanded the "Cool Cities" U.S. Mayors Climate Protection Initiative into a South Bay regional partnership to combine cities' resources to more effectively reduce greenhouse gas emissions. That effort continues through the South Bay Environmental Services Center (SBESC) Green Task Force. As part of his efforts to advocate for and implement energy conservation

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and alternative energy programs, Jim helped organize the effort to stop a liquefied natural gas (LNG) terminal from being built in the Santa Monica Bay. Jim was involved in preserving green spaces and revitalizing ecosystems in the Ballona Creek and at the Redondo Beach AES power plant site.

Jim has been involved in the Ballona Wetlands restoration design and planning as a member of the Ballona Creek Task Force and by serving as an alternate on the Santa Monica Bay Restoration Commission for LA City Councilmember Bill Rosendahl. He has also worked with the City of Los Angeles Bureau of Sanitation on Prop O stormwater filtration projects. Jim coordinated the LA City Council process for the final approval of the Venice Dual Force Main FEIR.

Jim currently works as a public relations and communications consultant. Jim is involved in building community support for water conservation through policy formulate, advocacy for program adoption, and by facilitating dialogue to build public involvement in project development and implementation. Similarly, Jim has been coordinating mass transit project implementation.

Jim has worked on several local, state, and federal campaigns. He is a California Democratic Party State Central Committee Delegate since 2006, and was an Alternate Delegate to the Democratic National Convention in 2008. He served on the Board of the Los Angeles County Young Democrats from 2005-2007. Since 2007, Jim has been an active Board member of the Los Angeles League of Conservation Voters. In addition, Jim serves as a volunteer mediator in the Dispute Resolution Program of the Los Angeles City Attorney's Office.

Jim has a background in business development and has degrees in economics from the London School of Economics and the College of William & Mary.

- Dr. James Landry is a Professor and Chair of the Department of Chemistry and Biochemistry, as well as Director of the Environmental Science Program at Loyola Marymount University (LMU). He also serves as the Senior Director of Operations for LMU's Center for Urban Resilience (CUREs). He has held a variety of administrative positions at LMU since joining the faculty in 1984; including Chair of the Chemistry and Biochemistry Department (1992-1996), Director and founding Chair of the Natural Science Department (1995-2007), Director of the University Honors Program (2000-2003), Associate Dean for Undergraduate Studies in the College of Science and Engineering (2007-2012), and most recently interim Vice Provost for Enrollment Management (2012-2013). His research has included collaboration with the Getty Conservation Institute developing methods of analysis of art objects using infrared microspectroscopy and determining museum environments employing gas chromatography-mass spectrometry.

His current research interests include the determination of heavy metal levels in the Ballona Wetlands as this degraded urban wetlands begins the process of restoration. Landry has served on the Board of Directors for the Friends of Ballona Wetlands since 2010. He was involved in the development of the Ballona Discovery Park, which opened in 2012 and is an open-air, educational and cultural Ballona Watershed learning center for students and the general public. Dr. Landry has served on the Board since 2010.

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- Neil P. Navin is vice president, gas transmission and storage for Southern California Gas Company (SoCalGas), one of Sempra Energy's regulated California utilities. He oversees gas storage risk management for SoCalGas' four storage facilities in Los Angeles and Santa Barbara Counties.

Since joining Sempra Energy in 2014, Navin has held a variety of responsibilities in gas storage, major projects management, and project controls. From 2014 to 2016, Navin was director of major projects for Southern California Gas Company (SoCalGas) and San Diego Gas & Electric (SDG&E). He oversaw gas pipeline projects, project controls, project quality, and project document management.

From 2000 to 2014, Navin was with Fluor Corporation managing engineering procurement and construction (EPC) projects in both domestic and international markets in the Middle East, California, Alaska, Canada, and Europe. He served in various rolls from senior director to engineering manager on environmental, fuel cell, and conventional oil and gas energy mega-projects.

From 1991 – 2000, Navin was with Ralph M. Parsons managing EPC projects in the Middle East, US, and Europe. He served in various rolls from project manager to process engineering manager on environmental, chemical weapons destruction, gas treating, sulfur recovery, and conventional oil and gas projects.

Navin serves on the board of directors of Housing Works, a permanent supportive housing non-profit. He holds a bachelor's degree in chemical engineering from McGill University in Montreal, Canada.

- Nicholas O'Deegan lives in Manhattan Beach with his wife and three precocious boys. He studied Political Economy and Urban Planning at UC Berkeley and had every intention of becoming a City Planner when he applied to a small startup in 2000 called Google. Seventeen years later, still at Google, he specializes in global corporate IT infrastructure, large scale program management and organizational productivity. He holds an MS in Computer Science from Cal State Long Beach. When not at work, he and his boys enjoy building things in their garage - legos, robotics kits, pinewood derby cars and anything that requires power tools.

Nicholas became a friend of the Friends after attending a volunteer event, where a conversation about panoramic photography with staff developed into a collaboration with Google to create an immersive educational classroom experience using the Google Expedition VR platform.

- Dr. Edith Read is the President of E. Read and Associates, a company that she formed in 2007 to streamline management of the Ballona Freshwater Marsh and support her consulting work surveying rare plants throughout Southern California and Western Arizona. Dr. Read earned a PhD in Biology from UC Irvine, specializing in Plant Ecology. She began her work at Ballona in 1991 with water studies relating to water availability and plant need while employed at Psomas. Subsequently, she studied plant populations throughout Ballona.

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Center for Natural Lands Management hired Dr. Read as the first Marsh Preserve Manager in 2003 prior to the opening of the Marsh and the Marsh flourishes under her care. Dr. Read oversees water monitoring, community relations, planting, wildlife monitoring and an array of other tasks. She has fondly become known to the community as the Marsh Mistress.

She has been involved with the Friends as an advisor regarding dunes restoration and in August 2007 became a member of the Board. With projects in Eastern Sierra Nevada and Southern California, another long-term area of expertise is monitoring impacts of stream diversion on habitat. Social Justice and providing "living wages" are values Dr. Read expresses through her company.

- Deb Roges and veteran network news and television producer Barry Berk partnered to form BBDR Pacific, a full-service event production/video production company servicing primarily non-profit agencies. The company has managed fundraisers, corporate events, and conferences; clients include the Anti-Defamation League, Big Brothers Big Sisters of Los Angeles, Cedars Sinai Board of Governors, Tower Cancer Research Foundation, A Place Called Home, Hope Street Family Center, New Directions for Veterans, UCLA Anderson, and UCLA Semel Institute.

Roges started her career at public relations giants Burson-Marsteller and Cohn & Wolfe, where over the course of 15 years she created and implemented top of mind strategic brand and media campaigns, counseled clients on crisis communications, and developed publicity events for some of the world's most recognized brands. She was also part of the company's corporate crisis team, traveling the country to media train executives and spokespersons.

She segued her agency experience into a corporate communications position with giant talent agents Michael Ovitz, Julie Yorn, and Rick Yorn, as they launched a new talent/production agency, AMG/ATG/APG. Deb managed a team of in-house and external/studio publicity campaigns, while also providing strategic counsel, often serving as the company's spokesperson.

Deb and her husband, Dr. Rafael Roges are long-time residents of the beach community of Playa del Rey.

- Catherine Tyrrell is a LEED (Leadership in Energy and Environmental Design) AP (accredited professional) and served as Board President from 2010 to 2012. Ms. Tyrrell has extensive knowledge of California's water quality regulations, stormwater management activities and watershed management approaches.

She has been the assistant executive officer for surface water programs with the Los Angeles Regional Water Quality Control Board. Among other activities, she led the effort with the State Water Resources Control Board and the U.S. Environmental Protection Agency to coordinate health and water quality monitoring statewide.

She was also the executive director of the Santa Monica Bay Restoration Project -- one of the first watershed projects in Southern California with a surface water quality focus.

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Prior to joining her present firm, RMC Water, she worked for the engineering firms Arcadis-Malcolm Pirnie and Psomas. Before that, she was director of coastal and environmental affairs for Playa Vista, where she created a conservancy to oversee operations, monitoring and maintenance of the master-planned community's freshwater marsh system. She also oversaw development and implementation of the freshwater marsh operations and maintenance manual. In addition, Ms. Tyrrell was responsible for coastal permitting for transportation and restoration projects within the coastal zone.

Ms. Tyrrell holds a master's degree in urban planning from the University of California, Los Angeles. She is a past board member of the Ballona Wetlands Foundation and the past president of the Ballona Wetlands Conservancy. Tyrrell and her husband, who have three grown children, moved to Playa Vista in March of 2006.

Board Delegates

- Jacob Lipa is the president of Psomas, a consulting engineering firm serving public and private clients throughout the western United States. The firm specializes in the land development, water/wastewater, and transportation markets.

Mr. Lipa was a natural choice to lead the Friends as President from 2008 to 2010. Under his presidency the organization increased staff, expanded public outreach, inaugurated a new website, and expanded the Friends Board of Directors with active, giving members.

Meanwhile, his firm (he became Psomas president in 2002) has established a reputation in the front lines of sustainable engineering with a number of LEED-rated projects. Since 2002, the firm has more than doubled in size, has entered several new markets and expanded throughout the West. He is in charge of all day-to-day operations of the 700-employee firm.

Prior to assuming his current position, Lipa was principal-in-charge of Psomas' land development services. He has more than three decades experience providing civil engineering services and managing large-scale projects in the United States, including Playa Vista, the location of the Ballona Wetlands.

- Michael Swimmer joined the Friends Board in July of 2006. A recently-retired Landscape Architect (ASLA) in Los Angeles since 1976; Mr. Swimmer graduated Cal Poly Pomona in 1970, with a B.S. in Landscape Architecture; receiving his Masters Degree in 1988 from UCLA in Architecture and Urban Planning, specializing in Energy Conserving Design. He started his own "design-build" office in 1973, after 2 years apprentice work in Landscape Architecture.

Mr. Swimmer is the winner of seven major Design Awards, including First Place Award in California for the Disneyland Hotel in 1977. The scope of his projects includes: Master Plan for 17 acre camp in Idyllwild; Master Plan for Solstice Canyon, California, Mountains & Recreation Conservancy; protection of 50 acre wetland, Mammoth Lakes; many hotel and shopping center projects, including Century City Shopping Center in 1989; and many large and small residential projects through out the Los Angeles area and in Idaho, Michigan, and Arizona.

O2-71  
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## Friends of Ballona Wetlands

Mr. Swimmer consulted for the Friends with Mary Thomson, former volunteer director of restoration, in the 1980's, and has been a life long admirer of the Ballona Wetlands, kayaking Marina del Rey harbor and the Ballona channel.

### Emeritus Board of Directors

- Tim Rudnick has been a member of the Friends since its inception in 1978, and served as a Board Member for over 15 years. A Venice activist and marine naturalist, Mr. Rudnick's interest and expertise lie in the connection between the wetland ecosystem and the ocean. He has played an integral role in educating local residents about the importance of preserving Ballona. Mr. Rudnick also takes students on boat trips and teaches them about marine ecology through the Venice Oceanarium, which he founded.
- Bob Shanman was elected to the Friends' Board in 1997. His involvement with the Ballona Wetlands goes back to 1977 when he first took up bird watching. In 1980, he began leading walks at Ballona Creek for Los Angeles Audubon. Mr. Shanman was directly responsible for involving the National Audubon Society at the Ballona Wetlands.

Beyond his service to the Friends Board, he continues to lead monthly Audubon bird walks at Ballona, Madrona Marsh, and parks in Manhattan Beach, is involved with several school programs, and helps fundraise for South Bay Wildlife Rehab. In 1995, Mr. Shanman opened Wild Birds Unlimited in Torrance, CA, which is part of a national franchise. He is a registered Civil and Geotechnical Engineer in California.

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**BALLONA PHOTOGRAPHY**[PROJECTS ▾](#)[PUBLICATIONS ▾](#)[THE BALLONA CHRONICLES](#)[ABOUT](#)[CONTACT](#)**HELLO + WELCOME**

The best part of being an urban wildlife photographer is discovering and sharing our wildlife neighbors, otherwise missed in the business of everyday life.

This slideshow includes just a few of the beautiful neighbors we have in the Ballona Wetlands. It includes Marina Del Rey, the Ballona Wetlands Ecological Reserve Areas, the Freshwater Marsh, the Riparian Corridor, Ballona Creek, the Del Rey Lagoon, the beach at Playa Del Rey, and adjacent areas.

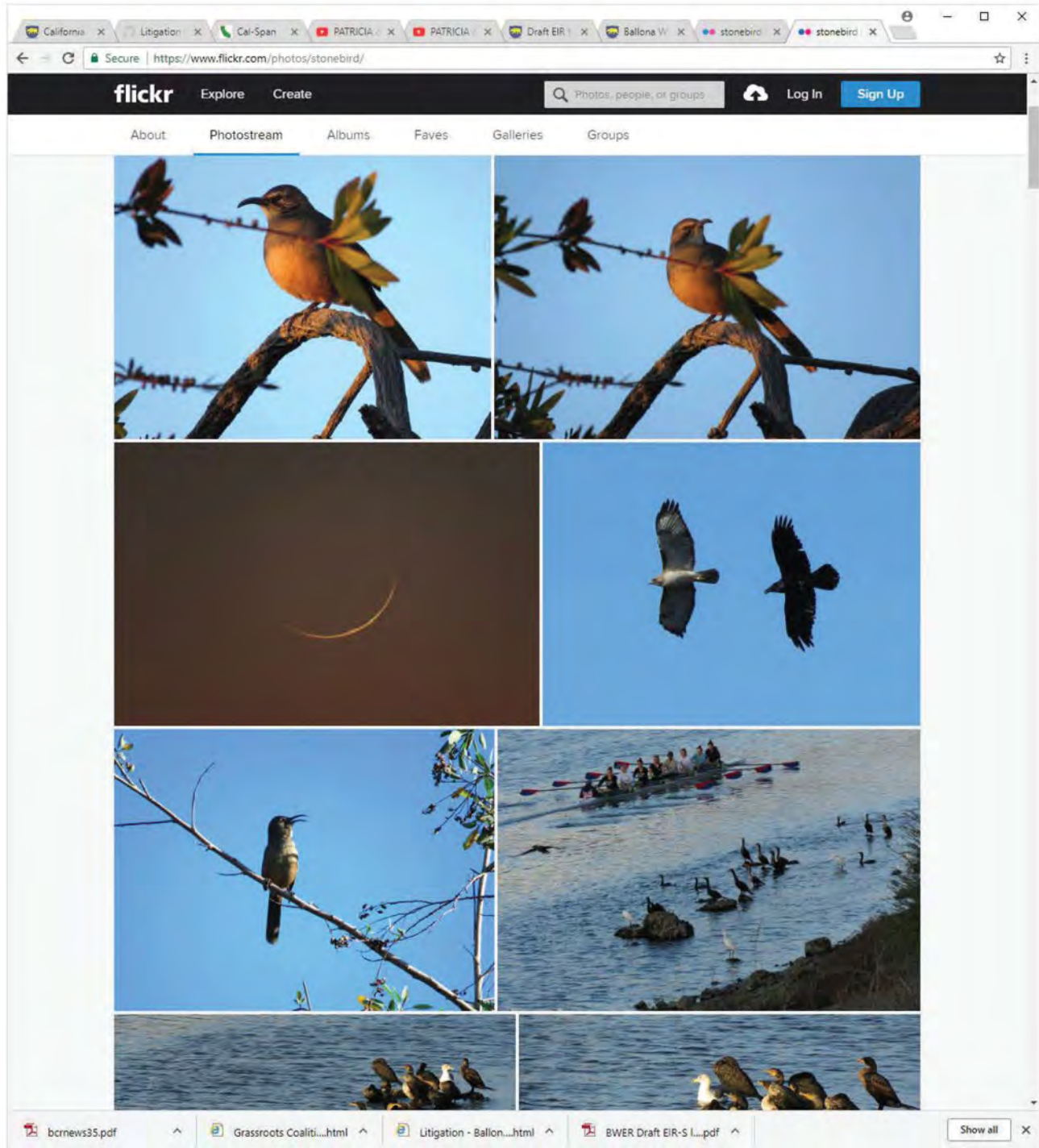
Double click on a photo to see the name of the species. Enjoy!

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O2-72



O2-73



-----Original Message-----

From: Kathy Knight [mailto:kathyknight66@gmail.com]

Sent: Saturday, 3 February, 2018 3:10 PM

To: Rogers, Bonnie L CIV USARMY CESPL (US) <Bonnie.L.Rogers@usace.army.mil>; Richard Brody <richard.brody@wildlife.ca.gov>

Subject: [Non-DoD Source] BWER EIS/EIR REQUEST 30 DAY EXT ON NEW REF MATERIALS ADDED ON 1/22/18 and 1/23/2018

TO: Bonnie L. Rogers, Senior Project Manager U.S. Army Corps of Engineers  
915 Wilshire Blvd., Suite 930  
Los Angeles, CA 90017-3401

Richard Brody, Land Manager  
California Dept. of Fish & Wildlife  
550 Kearny St., suite 800  
Sacramento, CA 95814

FROM: Kathy Knight, Project Manager  
Ballona Ecosystem Education Project.  
(310) 613-1175

EXTENSION NEEDED FOR BWER

An extension definitely needs to be done for the BWER DEIR/EIS due to more materials added to the list on January 22, 2018 and January 23, 2018 on your website of appendices and now reference materials. This newly added information is labeled "Reference Materials" and was added to the end of the list. There appears to be alot of reference materials from what I have been told. The public is having a hard time even accessing these newly added documents. I clicked on the link to the materials on your website, but it said I have to log in as a registered user with a password. I then clicked on to access as a guest, since I am not registered and don't have a password. But then it came up that it could not be accessed by my server. This problem does not happen with the other categories.

PLEASE GRANT AN EXTENSION ON COMMENTS UNTIL AT LEAST March 24, 2018 so that the public can

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O2-75

read and has time to analyze this new information.

Thank you.

↑ O2-75  
cont.

**From:** [Takei, Kevin@Wildlife](mailto:Takei, Kevin@Wildlife)  
**To:** [Wildlife Ballona Wetlands Ecological Reserve EIR](#)  
**Cc:** [Brody, Richard@Wildlife](mailto:Brody, Richard@Wildlife)  
**Subject:** FW: BALLONA DRAFT EIR/EIS NEEDS TO BE RE-DONE  
**Date:** Monday, February 5, 2018 9:46:04 AM

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-----Original Message-----

From: Kathy Knight [<mailto:kathyknight66@gmail.com>]  
Sent: Sunday, February 04, 2018 7:45 PM  
To: Bonham, Chuck@Wildlife <[Chuck.Bonham@wildlife.ca.gov](mailto:Chuck.Bonham@wildlife.ca.gov)>  
Subject: BALLONA DRAFT EIR/EIS NEEDS TO BE RE-DONE

February 4, 2018

TO: Director Charlton H. Bonham  
California Dept. of Fish & Wildlife  
1416 9th St., 12th Floor  
Sacramento, CA 95814

FROM: Kathy Knight, Project Manager  
Ballona Ecosystem Education Project  
(310) 450-5961  
[kathyknight66@gmail.com](mailto:kathyknight66@gmail.com)

Dear Director Bonham:

The Ballona Ecosystem Education Project is requesting that the Draft EIR/EIS on the Ballona Wetlands Project be rescinded and redone.

There are TOO MANY serious issues regarding its FLAWED PROCESS.

First, the time for comments is way too short for the public to be able to read, analyze and comment on an 8,000 page document.

The preparers had taken over 10 years to put it together, but gave the public only 4 months to comment on it.

Second, it was recently discovered that an entire section was added to the Draft EIR with no notice to the public at the end of January, around January 22 and 23, 2018. It was added at the end of the Ballona Draft EIR link on your website and it needs to be reviewed in connection with the 8,000 pages of the previous DEIR. They say it is cross-referenced to the appendices, but it is not.

We need a lot more time to comment on this section, way past the February 5th deadline so that we can weigh in on the references.

Due to this problem and the fact that this Draft EIR has many flaws that have been documented and sent to CDFW, we are asking that the DRAFT EIR/EIS be rescinded and redone.

Thank you.

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02-78

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02-80



**From:** [Kathy Knight](#)  
**To:** [Wildlife Ballona Wetlands Ecological Reserve EIR; Bonnie L. Rogers](#)  
**Subject:** Ballona Draft EIR/EIS Comments  
**Date:** Monday, February 5, 2018 4:08:51 PM

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February 5, 2018

TO:  
Bonnie L. Rogers, Senior Project Manager/Ecologist  
U.S. Army Corps of Engineers  
915 Wilshire Blvd., Suite 930  
Los Angeles, CA 90017-3401

Richard Brody, California Dept. of Fish & Wildlife  
c/o ESA  
550 Kearny St., Suite 800  
San Francisco, CA 94108

FROM: Kathy Knight, Ballona Ecosystem Education Project (B.E.E.P.)  
[kathyknight66@gmail.com](mailto:kathyknight66@gmail.com)

(310) 613-1175

Comments Re: Draft EIR/EIS for the Ballona Wetlands Ecological Reserve  
Restoration

The Ballona Ecosystem Education Project objects to and opposes the Project and the Defective Process involved.

1. This Draft EIR does NOT FULFILL the purpose of the California Environmental Quality Act (CEQA) as a document that helps the public understand what this project is, and the preferred alternative. It does not fulfill it for many reasons including:

a. It is approximately 8,000 pages long, which is extremely and unusually long of a document to explain a project. In addition to this extremely long document, the public was only given about 45 days to read, analyze and comment on it. Whereas, the California Department of Fish & Wildlife (CDFW) and the United States Army Corps of Engineers (ACE) took over 10 years to put the document together. After protests to extend the Comment Period to at least March 24th, CDFW and ACE only extended it to February 5th, which included the holiday season. Citizens are STILL asking for an extension to at least March 24th.

b. Not only is it extremely long, but it does not clearly give the public a Preferred Alternative, so they can focus their comments on that. Instead they say on pages ES1 and 2 that "Use of the term "Project" does not in way indicate or imply the Corps' endorsement of the Project", and that the lead agencies do not have a preference for Alternative 1, even though

O2-81

O2-82

O2-83

Alternative 1 is called the "Proposed Action." This is very confusing for the public, and does not help them to focus on a preferred alternative in their comments. It is very misleading.

↑  
O2-83  
cont.

c. Page ES 2 says the Ballona Wetlands are very degraded. What created this problem is in the process of being solved. The wetlands are having a hard time due to drains that Playa Vista put into the wetlands 20 years ago, the fact that Playa Vista is pulling out about 650,000 gallons of water a day from underneath their massive development across the street, and not sending it back to the full area as promised, and due to an extended drought. What is needed is just a system to bring fresh water back to this fresh water seasonal wetland. B.E.E.P. has submitted a document describing how fresh water from various sources can be brought back to the BWER. Are you going to do a Fresh Water Seasonal Wetland Alternative as the public has been asking for in written requests and at the public hearing on November 8, 2017?

O2-84

On December 14, 2017 the California Coastal Commission voted unanimously that these illegal drains need to be removed. So there needs to be a new study done in about 4-5 years showing the effect of finally removing these drains BEFORE a restoration plan is proposed or approved.

The current plan is projected to cost close to \$200 million in tax payer funds, whereas if fresh water is returned to the wetlands, it could cost MUCH LESS of scarce taxpayer funds. The money saved could go towards a fund for CDFW for oversight of the Reserve.

O2-85

QUESTION: Are proposed Alternatives No. 1,2,or 3 in any way related to being flood control systems to protect the Playa Vista development which did not do their own Flood Control Project? Were there any discussions of this purpose during the planning process?

O2-86

d. The pictures shown of the proposed Restoration, such as on the cover page of the Draft EIR/EIS DO NOT SHOW the 20' high concrete and dirt walls that are proposed around much of the land. This view of the proposal is very misleading. Most of the citizens we have talked to did not realize this would occur from the pictures they saw. Any proposed version of a restoration should be clear and accurate for the public to see and understand the proposed project. When are you going to show the public a true picture of this project with the high concrete and dirt walls?

O2-87

2. This Draft EIR has incorrect information that is leading to very incorrect conclusions regarding the current status of the site.

a. Page ES-3 and ES -4 Area A - 2.8 to 3.5 million cubic yards of fill was NOT dumped on it in the 1950s, "transforming what had been wetlands abundant with fish and waterfowl into upland and degraded wetlands." The research that has been done shows that most of the fill to dredge Marina Del Rey was used to build up dirt sites in Marina Del Rey so that they could build large developments on them. Trucks that had small amounts of dredging dirt left over would dump it on

O2-88

Area A to empty their trucks, leading to only about 6 feet of dirt built up along Fiji Way.

Also Area A is a very special part of the Tongva State Registered Sacred Site, and as such it should be respected and left as much as possible in its current state.

When Playa Vista was built they did not respect the Tongva burial sites there, and unearthed many burials, leaving them for long times in buckets. It was one of the worst desecrations of an Indigenous people's burial site ever in California.

O2-89

It is extremely important that we the public respect the Tongva indigenous people on this remaining Ballona Wetland ecosystem. They have lived here for 10,000 years and took very good care of the land, leaving it as a treasure for future generations. Unfortunately, most of the Tongva were killed through weapons and diseases that European and Mexican settlers brought with them.

b. The Ballona Wetlands have been fresh water seasonal wetlands for at least the past 200 years. This is very important due to the fact that over 95% of California's coastal wetlands have been destroyed by bulldozing and development, and most have been changed into salt water wetlands. Fresh water seasonal wetlands are even rarer on our coast, and need to be preserved for wildlife on the Pacific flyway such as birds and Monarch butterflies and other forms of life, such as frogs, reptiles, insects, etc.

O2-90

So on page ES-7 under ES.3.1 if the purpose under NEPA is to RESTORE ecological function and services within the Ballona Reserve, then the restoration needs to be for a fresh water seasonal wetlands, NOT an estuarine salt water wetland, which did not exist in any form on the site.

O2-91

### 3. Cost and Funding of this Proposed Restoration Project

How much will this proposed Destruction/Creation Plan cost? On ES-6 it states that In 2004, California State Coastal Conservancy (SCC) "approved state bonds funds to "revitalize and restore the Ballona Reserve. How much money was approved, and who was it given to?

How much money has been spent since the first restoration process began after the 2003 purchase and where has it come from, and what has it been spent on?

Who is keeping track of these costs, and where do we go to see an accounting?

O2-92

### 4. We Need INDEPENDENT Studies for a Proposed Restoration for the BWER Page ES-8, Section ES.3.2

O2-93

It is crucial that any studies being done for this restoration are done by independent companies that do not have past and current connections to the Playa Vista development. There is a history of consultants for Playa Vista not agreeing with the public that there was an oil field gas leak on the Playa Vista

O2-94



site. It took citizens over 6 years to get an INDEPENDENT study of the gas. The independent study showed that the citizens were correct, there was a very serious oilfield gas leak. The first test well blew out for 24 hours. And Playa Vista had to install a gas mitigation system.

O2-94  
cont.

This is important because many people who look at this proposed plan are shocked at the 20 feet high piles of concrete and dirt that will be around most of the property, cutting it off from the view of most of the public. It seems to many people to be a flood control project for the Playa Vista developers who did not do their own flood control project. But their flood control project should not be done on public land at the public's expense.

O2-95

O2-96

Also Southern California Gas Co. will get their wells capped and slant wells installed at taxpayer's expense if this proposal is approved. We think the Gas Co. must pay for this.

O2-97

Psomas is one of the companies involved in the Biology studies (Biology D1-1, D-1-2, D1-3), but they have a close connection to Playa Vista. They worked for the Playa Vista developers in Phase 1 of the Playa Vista development built on the Ballona wetlands east of Lincoln Blvd. They also have a board member on Friends of Ballona Wetlands (FBW) that has close ties to the Playa Vista development and to the Southern California Gas Company (see list of FBW Board members at [www.ballonafriends.org](http://www.ballonafriends.org).)

O2-98

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From [Psomas.com](http://Psomas.com) website:

## Preservation and Restoration of the Ballona Wetlands

The Playa Vista property spans more than 1,087 acres at the western edge of Los Angeles on the former site of the Hughes Aircraft Plant. The master-planned community includes a mix of more than 3,000 residential housing units ranging from affordable to luxury and office and commercial space. A major component is The Campus at Playa Vista, an entertainment, new media and technology office complex with sound stages and production facilities. Playa Vista also features parks and recreational facilities, all next to a restored wetland and wildlife preserve.

O2-99

Psomas played a substantial role in securing entitlements for both Phase One and Two. Civil engineering services included grading, street and infrastructure design. In addition, Psomas aided in the development and implementation of a number of highly-complex transportation solutions for this new community.

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What are the money connections between the consultants on this DEIR/EIS, the Bay Foundation that is promoting it, Playa Capital, LLC, the Southern California Gas Company, Friends of Ballona Wetlands, The Ballona Conservancy, Heal the

Bay and any other groups supporting this project? The public needs to know this information for full disclosure on this massive, highly expensive project that will cause a destruction of the fresh water wetland and replace it with a salt water bay. Thank you.

O2-99  
cont.

The Science Advisory Committee did not have alot of public involvement from the many citizens who want a non-destructive restoration of this fresh water wetlands.

O2-100

5. The Ballona Wetlands are historically a fresh water seasonal wetland. THAT is what they should be restored to.

But on Pg ES-9 the goal stated is to change Ballona into an estuarine and associated habitat through a large tidally inundated system.

How can they propose that when that is not what it is?

O2-101

We are opposed to Alternatives 1,2, and 3.

O2-102

#### Chapter 2 - Description of Alternatives

2.2.2 Alternative 1: Full Tidal Restoration/Proposed Action is for “predominately estuarine conditions” to “benefit the adjacent marine environment”.

Would remove levees on a portion of Ballona Creek. "Land north of Ballona Creek would be lowered to create a connected floodplain."

Partially earthen levees would “surround the Ballona Reserve” and “protect surrounding development from potential flooding from Ballona Creek.”

O2-103

2.2.3 Alternative 3 - no flood risk management berms and Ballona Creek channel would not be re-configured.

2.2.4 Page ES - 14 ES.4.4 Alternative 4 - Flood gates permanently closed. "No Project Alternative Ballona Reserve would remain closed to the public except as authorized by CDFW."

WE SUPPORT FULLY STUDIED ALTERNATIVES 10 & 11 rather than they being dismissed.

2.3.6 Alternative 10 Manipulated Wetlands Alternation pg. 2-231

2.3.7 Alternative 11 19th Century Wetlands pg. 2-234

O2-104

Alternatives 10 and 11 should be FULLY STUDIED, as this is for a fresh water wetlands system, which is what the BWER is and therefore a restoration would be to restore it to that status. We support a full study of Alternatives 10 and 11.

#### Comments on Ballona Wetlands Ecological Reserve Draft EIR/EIS Regarding Area A

The information on Area A is very confusing, contradictory and incorrect.

1. Size of Area A. In one section - ES-4 it says that “Area A is approximately 163 acres.” Then in another section it says that Area A is 139 acres. Which is correct? This is a 24 acre

O2-105

difference which is very significant. Which size is the correct one?

↑ O2-105  
cont.

2. The DEIR says at ES-2 and ES-3 that 2.8 to 3.5 million cubic yards of dirt was dumped on it. But that is incorrect. Most of the dirt from the dredging of Marina Del Rey was used to build up dirt sites in the Marina so that they could build very large buildings on those sites. Only a very small amount of dirt was left at Area A, not more than 6 feet of dirt from research I have learned about.

The Draft EIR claims that there is 21 ft. of fill on Area A. So they will take out 4,557,854 feet of dirt. Then it claims that the sub grade is at 6 ft. below that after the "fill" is excavated - pages 1, 302, 244. So the total would be 5,860,098 cubic feet of dirt removed, not 2 million.

O2-106

Section 8.2 Studies Done : shows fill of 9-17 ft of fill. They say is is mostly dredge spoils from Ballona Creek Channel and Marina Del Rey. They say below the fill are marsh deposits.

Page 17 of the attachment , the info is not true, it is not deep enough. These are Native American sites. These graphics are not accurate. They are not showing the full excavation for Areas A and B. They are going to excavate more than is shown on the graph. It doesn't match the excavation grading plan they have in the EIS. See Grading plan that shows the curves.

O2-107

Page 15 Figure 3A

Gray and White is the old 1861 survey. Yellow is the elevation. Area C has fill - it is not native land.

Area A is at 0 feet elevation. This is not accurate. They said it was moved around for farming. It is neutral, so there is no fill. Saying there is anti material fill on it is not accurate.

O2-108

The alignment is not completely accurate on the rest of the graphic.

Area C - When they dug up harbor to create Marina Del Rey the government had them dump the extra dirt on Area C. Howard Hughes also put dirt there so that he could build there in 1963 and 1964. There is no proof of this fill. It is not historically that high so it is wrong that it is the native elevation.

O2-109

Page 12 LCI results say there is 9-17 feet of fill. This does not match. There is no proof that there is fill.

91 - Non CPT borings for the destiny of approximately 0.65 acres. Every half acre they made a boring. But they are not talking about these other borings.

O2-110

Even by their testing the water level is 5-10 feet in a water area. It would not be fill. If it were that close then plants would grow. They say 9-17 feet of fill, but the water IS closer to the surface because they did borings for levees that showed the level.

TATTN forced this ESA document in 2012. The Ballona Wetlands Restoration Project tried to prove that artifacts are way below where they say they wanted to dig. They tried to show that there were no archaeological implications. TATTN gave them information regarding this incorrect assumption, but it was not used.

O2-111  
↓



They talk about the fill more than about the archaeological sites. Pg. 18 shows 1 archaeological site in Area A. This is incorrect.

↑ O2-111  
cont.

pg. 10 - The ball field doesn't match others 10-20 feet.

↑ O2-112

pg. 15 - says page 12

↑ O2-113

pg. 10 Area is 10-20 ft of fill - doesn't show on others.

↑ O2-114

Area B - they didn't take dirt down there. Graphics are inconsistent and fraudulent.

↑ O2-115

3. The proposed Ballona Restoration Plan would severely damage Area A.

It would bulldoze massive amounts and destroy a California Registered Sacred site of the Tongva indigenous people of this area, who have been living here for 10,000 years.

O2-116

Why would this not be a reason to protect this land, work with the indigenous people and highly respect their cultural history, since so much of has already been wiped out by Playa Vista and other developments?

TATTN Grading graphics

Page 1 1st Graphic - C line and digging all that out dug down. C-C line - going to dig out deep

2nd Graphic - E grade - Planning to excavate way below that.

3rd Graphic - Shows how much they are going to dig. The second one shows hoe deep Ballona Creek Channel is below the grade.

The third one shows have to dig out to put in Rock or Cement and soil. Left is all going to get cut out. Digging down water to

O2-117

4th (Last Graphic) - Green and blue show they are going to excavate really low. Will be full of water.

Tan rises up - shallow. Water going to the levees. They need hill dirt from digging out the other parts.

Water is going to be in the green. It shows miles of levees with dirt. The dirt has to come from somewhere.

4. Conclusions are drawn that are VERY INAPPROPRIATE for an Ecological Reserve, which is what this land has been saved as.

a. A proposed parking lot (Section H - Traffic page 20) in Area A across from a large commercial shopping center that wants to re-develop their site and would need more parking for its employees and customers, would be 3 stories high and provide 302 parking spaces for the public. They say it is for the public to enjoy the wetlands, but there would not be this many parking spaces needed for that and

O2-118

it could impact the bird population, especially if there are any windows high up, as well as add development to an already limited reserve. Where was this type of impact studied?

Neither the proposed parking structure nor the existing parking lots in Area A are compatible with the purpose of an ecological reserve and a new analysis should be conducted to measure the ecological benefit of converting the existing paved areas to much needed wildlife habitat. Any parking areas in the ecological reserve should be based on a thorough parking needs analysis that factors in all existing parking alternatives and which is consistent with the lead agency's practices at other ecological reserves across the state.

The main description of the parking garage is on Page 216 under section 2.2.2.3 (Alt 1 Public Access and Visitor Facilities) in Chapter 2.

We support other comments submitted by Rex Frankel, President of Ballona Ecosystem Education Project; Grassroots Coalition, the Sierra Club, and TATTN.

We have submitted photographs through the mail to show the wonderful wildlife that has lived on this land recently, until drains were put in. It shows the value of this land for the wildlife when the fresh water is returned.

Thank you.

O2-118  
cont.

O2-119



# Friends of Ballona Wetlands

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## Board of Directors

- Nancy Edwards (President) joined the Friends Board in July 2013. She retired in April 2011 from Aptium Oncology where she was Director of Information Technology responsible for the implementation of all Financial Systems for 13 years. Prior to her work with Aptium Oncology, Nancy spent 17 years as Director of Business Services at various hospital systems.

Key amongst the many goals she established for her retirement is giving back to the community she loves. Friends of Ballona Wetlands is a natural fit as Nancy and her husband John have a home overlooking the Ballona Wetlands. They have long understood the need to protect and restore this natural wonder. Creating awareness for the conservation and restoration of our natural resources, waterways and wildlife is an important mission. Joining the Friends provides a great opportunity to promote this important cause and become a steward of the Wetlands

Nancy is also a Trustee on the Board of the Natural History Museum and a Board Member of the Westchester Mental Health Guild.

Nancy and her husband John have lived in the El Segundo and Playa Del Rey area for 30 years. She keeps her binoculars trained on the wetlands and scours them daily to see what friends may be flying about. Other interests include cooking, tasting and collecting wine, and travel to locations near and far.

- Dr. Eloise Appel (Vice President) has lived in the Playa del Rey area for over 30 years. She earned a doctorate in educational evaluation and research from UCLA and established an education consulting firm specializing in program evaluation, educational assessment, and professional development. Ms. Appel has conducted evaluation studies at both the local and state level and provided technical assistance and professional development for the US Department of Education. Areas of specialization include early childhood and literacy, family literacy, bilingual education, health



### Did You Know?

How did the native peoples of Ballona utilize the plants in the area?

- The Arroyo Willow was used by the Tongva for relieving pain, much like aspirin is used today.

O2-120



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## Friends of Ballona Wetlands

- b. Sagebrush leaves were once brewed by the Tongva to help ease childbirth.
  - c. The Tongva used Sea-Blite as flour as well as a dye for basketry.
- volunteer now »

education, and teacher certification program evaluation. Ms. Appel began her career in education as an elementary school teacher.

Recently retired, Ms. Appel enjoys taking walks with her husband Mark along the Ballona Creek Jetty, and is very interested in learning more about the Ballona Wetlands and how she can assist the Friends in furthering their mission. She is an active volunteer with the Hope Street Family Center in downtown LA and serves as the co-chair of their Fund Development Committee. She has also served on the Board of Governors of the Airport Marina Counseling Service non-profit.

- Ruth Lansford (Founder) was raised in Long Island, New York where she lived next to wetlands. She moved to Playa del Rey in the early 1960's where she found she was once more neighbor to a wetland. After heirs of Howard Hughes' estate announced development plans in the wetlands, Ms. Lansford formed the Friends of Ballona Wetlands in 1978. The Friends fought the proposed development but the California Coastal Commission approved it.

Then, in 1984 the Friends, led by a determined Ms. Lansford, filed suit. After more than 6 years in litigation and negotiation, a settlement was reached with the subsequent landowner, (Maguire Thomas) which preserved 340 acres of wetland and surrounding habitat.

The Friends continued to push for more acreage to be saved, and in 2003 the State purchased the remaining Ballona acres west of Lincoln from Playa Vista.

For Ruth Lansford's outstanding efforts over 3 decades to preserve and protect the Ballona Wetlands, in 2006 she won the prestigious National Citizen Planner of the Year award from the American Planning Association (APA), having won the state award in 2005.

- John Gregory (Treasurer) recently retired as an accountant at Sony Pictures Entertainment, and brings to the FBW board thirty years of accounting and finance experience in the entertainment and aerospace industries and in public accounting, where he received his CPA certificate.

At Sony Pictures, he has long been active in LINKS, the company's employee volunteer program, participating in a variety of environmental community service projects such as tree plantings with TreePeople. Mr. Gregory is also on the LINKS Steering Committee, which contributes to the selection, organization, preparation and leadership of the volunteer events.

He was introduced to the Ballona Wetlands and the Friends' mission to champion the restoration and protection of the wetlands through the annual Sony Global Volunteer Day in 2008.

A New Jersey native, Mr. Gregory has fond memories of the marshlands along the Jersey shore, and has long appreciated the wisdom and importance of protecting nature's delicate ecosystems. Accordingly, he became more involved with the Friends, and joined the board in March 2009. Mr. Gregory and his wife Kathy reside in nearby Westchester.

O2-120  
cont.

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## Friends of Ballona Wetlands

- Steve Hirai (Secretary) became a member of the Friends' Board in January 2012. Steve is a business development manager for Parsons, a global engineering, construction, technical, and management services firm. He is responsible for business development and for setting the strategy and implementation for successful performance and sustained growth.

Steve has managed and supported a variety of municipal water, wastewater, and energy projects in Southern California for over 20 years, and has been involved in research, design, and construction activities related to the treatment, storage, and conveyance of municipal water and wastewater. He is also knowledgeable about renewable energy projects, having designed multiple large-scale solar generation facilities and directed strategic energy management studies.

Steve is a professional civil engineer, having received his M.S. in Environmental Engineering from UCLA in 1993, and has a B.S. in Civil Engineering from the same university in 1992.

Steve was raised in Westchester and fondly remembers playing in the Ballona Wetlands as a child. He now resides in Culver City, CA with his wife and two children.

- Dr. Kenneth Dial is a professor emeritus in the Division of Biological Sciences at the University of Montana. His research program focuses on the behavior, biomechanics, neural control, ecology and evolution of avian flight. Following a post-doctoral fellowship at Harvard University, Dr. Dial became a professor of biology at the University of Montana in 1988. As a teenager, Ken took a keen interest in both aeronautics (his father was an aeronautical engineer near LAX) and biology (nature's fliers). Dial was founder and acting director of the UM Flight Laboratory as well as director of UM Field Research Station at Fort Missoula. He teaches graduate classes in evolutionary biology of East Africa.

With more than 35 years of experience as a pilot, Ken is currently pilot-owner of a CJ3 (N53KJ), certified to fly several types of jet aircraft and turbo-props, but prefers backcountry flying into remote airstrips in the Montana-Idaho wilderness in his Cessna Skywagon C185. Ken developed and hosted 26 episodes of "All Bird TV" on the Discovery Channel's Animal Planet. Dial has been a keynote speaker at numerous symposia (including the Society of Experimental Test Pilot's international meetings). Ken recently transitioned from full-time professorial duties at the University of Montana to work on wildlife and land conservation projects in Tanzania, Kenya, southern California and western Montana.

- Dr. Pippa Drennan grew up in South Africa and earned her PhD from University of KwaZulu-Natal with a specialty in mangrove/estuarine biology. She is on the faculty at Loyola Marymount University and teaches plant biology and ecology, frequently involving her LMU students in special projects at Ballona Wetlands. She has served as a botany consultant for the Friends for the past six years and Board Member since 2001. Dr. Drennan also enjoys nature photography and she and her family travel worldwide.
- Lisa Fimiani became an avid bird-watcher while growing up in Buffalo, New York. In 1986 she moved to Los Angeles, where she joined the Domestic Television Sales division of Paramount Pictures.

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cont.

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In her last position at Paramount she served as vice president of Sales Administration and Program Lineups, and after 18 years with the company left to form her own consulting firm.

She has been a member of the National Audubon Society since living in Buffalo. In June of 2006 Ms. Fimiani stepped down after serving 6 years on the Audubon California Board, and joined the Board of the Los Angeles Audubon Society chapter as treasurer. A Docent at the Ballona Freshwater Marsh since it was formed in 2003, Ms. Fimiani joined the Friends' Board in 2005. She created a native plant design company in 2007. Ms. Fimiani was Executive Director of the Friends from 2009 to 2016, bringing an abundance of knowledge as a local naturalist.

- Susan Gottlieb joined the Friends' Board in August 2007 as an expression of her passionate support for the organization's work at Ballona restoring the dunes where native plants are an essential component to support migrant and resident birds. Ms. Gottlieb partners with her husband, Dan Gottlieb, in an array of projects that support wildlife. Their own native plant garden has been showcased on Huell Howser's show, California's Green and is featured on the Theodore Payne Native Plant Garden Tour since its inception in 2003.

Susan and Dan Gottlieb opened their G2 Gallery on Abbot Kinney Blvd in Venice, CA, March 2008. The mission of G2 Gallery is accomplished by showcasing photographic images of our natural environment by today's most gifted artists and partnering with conservation and educational organizations. In keeping with the Mission of the Gallery, some of the proceeds are donated to the Friends.

- Stephen Groner is the founder of S. Groner Associates, Inc. (SGA) a community relations and social marketing firm. The firm is an eclectic mix of communication professionals and research staff that help local governments, private companies, and non-profits bridge the communications gap with their stakeholders. Stephen received his bachelor's degree in Civil and Environmental Engineering from the University of Wisconsin, Madison and is a California Registered Civil Engineer.

Prior to starting SGA, Stephen worked on environmental issues addressing regional water quality and waste management problems facing the region. Stephen started his career working on technical environmental remediation issues for the County of Los Angeles and slowly shifted his focus to policy and communications issues addressing regional environmental concerns. Stephen also serves on the board of Los Angeles Social Venture Partners a philanthropic organization that invests time and money in non-profit organizations to help build their capacity.

- Jim Kennedy joined the Friends' Board in January 2014. Jim has been a staff member for several local elected officials. In that capacity he has contributed to developing energy and environmental policies and programs. Jim expanded the "Cool Cities" U.S. Mayors Climate Protection Initiative into a South Bay regional partnership to combine cities' resources to more effectively reduce greenhouse gas emissions. That effort continues through the South Bay Environmental Services Center (SBESC) Green Task Force. As part of his efforts to advocate for and implement energy conservation

O2-120  
cont.



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and alternative energy programs, Jim helped organize the effort to stop a liquefied natural gas (LNG) terminal from being built in the Santa Monica Bay. Jim was involved in preserving green spaces and revitalizing ecosystems in the Ballona Creek and at the Redondo Beach AES power plant site.

Jim has been involved in the Ballona Wetlands restoration design and planning as a member of the Ballona Creek Task Force and by serving as an alternate on the Santa Monica Bay Restoration Commission for LA City Councilmember Bill Rosendahl. He has also worked with the City of Los Angeles Bureau of Sanitation on Prop O stormwater filtration projects. Jim coordinated the LA City Council process for the final approval of the Venice Dual Force Main FEIR.

Jim currently works as a public relations and communications consultant. Jim is involved in building community support for water conservation through policy formulate, advocacy for program adoption, and by facilitating dialogue to build public involvement in project development and implementation. Similarly, Jim has been coordinating mass transit project implementation.

Jim has worked on several local, state, and federal campaigns. He is a California Democratic Party State Central Committee Delegate since 2006, and was an Alternate Delegate to the Democratic National Convention in 2008. He served on the Board of the Los Angeles County Young Democrats from 2005-2007. Since 2007, Jim has been an active Board member of the Los Angeles League of Conservation Voters. In addition, Jim serves as a volunteer mediator in the Dispute Resolution Program of the Los Angeles City Attorney's Office.

Jim has a background in business development and has degrees in economics from the London School of Economics and the College of William & Mary.

- Dr. James Landry is a Professor and Chair of the Department of Chemistry and Biochemistry, as well as Director of the Environmental Science Program at Loyola Marymount University (LMU). He also serves as the Senior Director of Operations for LMU's Center for Urban Resilience (CUREs). He has held a variety of administrative positions at LMU since joining the faculty in 1984; including Chair of the Chemistry and Biochemistry Department (1992-1996), Director and founding Chair of the Natural Science Department (1995-2007), Director of the University Honors Program (2000-2003), Associate Dean for Undergraduate Studies in the College of Science and Engineering (2007-2012), and most recently interim Vice Provost for Enrollment Management (2012-2013). His research has included collaboration with the Getty Conservation Institute developing methods of analysis of art objects using infrared microspectroscopy and determining museum environments employing gas chromatography-mass spectrometry.

His current research interests include the determination of heavy metal levels in the Ballona Wetlands as this degraded urban wetlands begins the process of restoration. Landry has served on the Board of Directors for the Friends of Ballona Wetlands since 2010. He was involved in the development of the Ballona Discovery Park, which opened in 2012 and is an open-air, educational and cultural Ballona Watershed learning center for students and the general public. Dr. Landry has served on the Board since 2010.

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cont.

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- Neil P. Navin is vice president, gas transmission and storage for Southern California Gas Company (SoCalGas), one of Sempra Energy's regulated California utilities. He oversees gas storage risk management for SoCalGas' four storage facilities in Los Angeles and Santa Barbara Counties.

Since joining Sempra Energy in 2014, Navin has held a variety of responsibilities in gas storage, major projects management, and project controls. From 2014 to 2016, Navin was director of major projects for Southern California Gas Company (SoCalGas) and San Diego Gas & Electric (SDG&E). He oversaw gas pipeline projects, project controls, project quality, and project document management.

From 2000 to 2014, Navin was with Fluor Corporation managing engineering procurement and construction (EPC) projects in both domestic and international markets in the Middle East, California, Alaska, Canada, and Europe. He served in various rolls from senior director to engineering manager on environmental, fuel cell, and conventional oil and gas energy mega-projects.

From 1991 – 2000, Navin was with Ralph M. Parsons managing EPC projects in the Middle East, US, and Europe. He served in various rolls from project manager to process engineering manager on environmental, chemical weapons destruction, gas treating, sulfur recovery, and conventional oil and gas projects.

Navin serves on the board of directors of Housing Works, a permanent supportive housing non-profit. He holds a bachelor's degree in chemical engineering from McGill University in Montreal, Canada.

- Nicholas O'Deegan lives in Manhattan Beach with his wife and three precocious boys. He studied Political Economy and Urban Planning at UC Berkeley and had every intention of becoming a City Planner when he applied to a small startup in 2000 called Google. Seventeen years later, still at Google, he specializes in global corporate IT infrastructure, large scale program management and organizational productivity. He holds an MS in Computer Science from Cal State Long Beach. When not at work, he and his boys enjoy building things in their garage - legos, robotics kits, pinewood derby cars and anything that requires power tools.

Nicholas became a friend of the Friends after attending a volunteer event, where a conversation about panoramic photography with staff developed into a collaboration with Google to create an immersive educational classroom experience using the Google Expedition VR platform.

- Dr. Edith Read is the President of E. Read and Associates, a company that she formed in 2007 to streamline management of the Ballona Freshwater Marsh and support her consulting work surveying rare plants throughout Southern California and Western Arizona. Dr. Read earned a PhD in Biology from UC Irvine, specializing in Plant Ecology. She began her work at Ballona in 1991 with water studies relating to water availability and plant need while employed at Psomas. Subsequently, she studied plant populations throughout Ballona.

O2-120  
cont.

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Friends of Ballona Wetlands

Center for Natural Lands Management hired Dr. Read as the first Marsh Preserve Manager in 2003 prior to the opening of the Marsh and the Marsh flourishes under her care. Dr. Read oversees water monitoring, community relations, planting, wildlife monitoring and an array of other tasks. She has fondly become known to the community as the Marsh Mistress.

She has been involved with the Friends as an advisor regarding dunes restoration and in August 2007 became a member of the Board. With projects in Eastern Sierra Nevada and Southern California, another long-term area of expertise is monitoring impacts of stream diversion on habitat. Social Justice and providing "living wages" are values Dr. Read expresses through her company.

- Deb Roges and veteran network news and television producer Barry Berk partnered to form BBDR Pacific, a full-service event production/video production company servicing primarily non-profit agencies. The company has managed fundraisers, corporate events, and conferences; clients include the Anti-Defamation League, Big Brothers Big Sisters of Los Angeles, Cedars Sinai Board of Governors, Tower Cancer Research Foundation, A Place Called Home, Hope Street Family Center, New Directions for Veterans, UCLA Anderson, and UCLA Semel Institute.

Roges started her career at public relations giants Burson-Marsteller and Cohn & Wolfe, where over the course of 15 years she created and implemented top of mind strategic brand and media campaigns, counseled clients on crisis communications, and developed publicity events for some of the world's most recognized brands. She was also part of the company's corporate crisis team, traveling the country to media train executives and spokespersons.

She segued her agency experience into a corporate communications position with giant talent agents Michael Ovitz, Julie Yorn, and Rick Yorn, as they launched a new talent/production agency, AMG/ATG/APG. Deb managed a team of in-house and external/studio publicity campaigns, while also providing strategic counsel, often serving as the company's spokesperson.

Deb and her husband, Dr. Rafael Roges are long-time residents of the beach community of Playa del Rey.

- Catherine Tyrrell is a LEED (Leadership in Energy and Environmental Design) AP (accredited professional) and served as Board President from 2010 to 2012. Ms. Tyrrell has extensive knowledge of California's water quality regulations, stormwater management activities and watershed management approaches.

She has been the assistant executive officer for surface water programs with the Los Angeles Regional Water Quality Control Board. Among other activities, she led the effort with the State Water Resources Control Board and the U.S. Environmental Protection Agency to coordinate health and water quality monitoring statewide.

She was also the executive director of the Santa Monica Bay Restoration Project -- one of the first watershed projects in Southern California with a surface water quality focus.

O2-120  
cont.



2/12/2018

Friends of Ballona Wetlands

Prior to joining her present firm, RMC Water, she worked for the engineering firms Arcadis-Malcolm Pirnie and Psomas. Before that, she was director of coastal and environmental affairs for Playa Vista, where she created a conservancy to oversee operations, monitoring and maintenance of the master-planned community's freshwater marsh system. She also oversaw development and implementation of the freshwater marsh operations and maintenance manual. In addition, Ms. Tyrrell was responsible for coastal permitting for transportation and restoration projects within the coastal zone.

Ms. Tyrrell holds a master's degree in urban planning from the University of California, Los Angeles. She is a past board member of the Ballona Wetlands Foundation and the past president of the Ballona Wetlands Conservancy. Tyrrell and her husband, who have three grown children, moved to Playa Vista in March of 2006.

Board Delegates

- Jacob Lipa is the president of Psomas, a consulting engineering firm serving public and private clients throughout the western United States. The firm specializes in the land development, water/wastewater, and transportation markets.

Mr. Lipa was a natural choice to lead the Friends as President from 2008 to 2010. Under his presidency the organization increased staff, expanded public outreach, inaugurated a new website, and expanded the Friends Board of Directors with active, giving members.

Meanwhile, his firm (he became Psomas president in 2002) has established a reputation in the front lines of sustainable engineering with a number of LEED-rated projects. Since 2002, the firm has more than doubled in size, has entered several new markets and expanded throughout the West. He is in charge of all day-to-day operations of the 700-employee firm.

Prior to assuming his current position, Lipa was principal-in-charge of Psomas' land development services. He has more than three decades experience providing civil engineering services and managing large-scale projects in the United States, including Playa Vista, the location of the Ballona Wetlands.

- Michael Swimmer joined the Friends Board in July of 2006. A recently-retired Landscape Architect (ASLA) in Los Angeles since 1976; Mr. Swimmer graduated Cal Poly Pomona in 1970, with a B.S. in Landscape Architecture; receiving his Masters Degree in 1988 from UCLA in Architecture and Urban Planning, specializing in Energy Conserving Design. He started his own "design-build" office in 1973, after 2 years apprentice work in Landscape Architecture.

Mr. Swimmer is the winner of seven major Design Awards, including First Place Award in California for the Disneyland Hotel in 1977. The scope of his projects includes: Master Plan for 17 acre camp in Idyllwild; Master Plan for Solstice Canyon, California, Mountains & Recreation Conservancy; protection of 50 acre wetland, Mammoth Lakes; many hotel and shopping center projects, including Century City Shopping Center in 1989; and many large and small residential projects through out the Los Angeles area and in Idaho, Michigan, and Arizona.

O2-120  
cont.

2/12/2018

## Friends of Ballona Wetlands

Mr. Swimmer consulted for the Friends with Mary Thomson, former volunteer director of restoration, in the 1980's, and has been a life long admirer of the Ballona Wetlands, kayaking Marina del Rey harbor and the Ballona channel.

### Emeritus Board of Directors

- Tim Rudnick has been a member of the Friends since its inception in 1978, and served as a Board Member for over 15 years. A Venice activist and marine naturalist, Mr. Rudnick's interest and expertise lie in the connection between the wetland ecosystem and the ocean. He has played an integral role in educating local residents about the importance of preserving Ballona. Mr. Rudnick also takes students on boat trips and teaches them about marine ecology through the Venice Oceanarium, which he founded.
- Bob Shanman was elected to the Friends' Board in 1997. His involvement with the Ballona Wetlands goes back to 1977 when he first took up bird watching. In 1980, he began leading walks at Ballona Creek for Los Angeles Audubon. Mr. Shanman was directly responsible for involving the National Audubon Society at the Ballona Wetlands.

Beyond his service to the Friends Board, he continues to lead monthly Audubon bird walks at Ballona, Madrona Marsh, and parks in Manhattan Beach, is involved with several school programs, and helps fundraise for South Bay Wildlife Rehab. In 1995, Mr. Shanman opened Wild Birds Unlimited in Torrance, CA, which is part of a national franchise. He is a registered Civil and Geotechnical Engineer in California.

O2-120  
cont.

**From:** [Rex Frankel](#)  
**To:** [Wildlife Ballona Wetlands Ecological Reserve EIR; Rogers Bonnie L CIV USARMY CESPL \(US\)](#)  
**Subject:** Comments on Ballona Wetlands Restoration Plan DEIR  
**Date:** Monday, February 5, 2018 4:48:28 PM

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FROM BALLONA ECOSYSTEM EDUCATION PROJECT, President Rex Frankel

A Project of the Progressive Resource Center,  
P.O. Box 451153, L.A. CA 90045  
310-738-0861

FEBRUARY 5, 2018

DEIR COMMENTS:

BALLONA WETLANDS RESTORATION PROJECT

Environmental Impact Statement/ Environmental Impact Report State Clearinghouse No. 2012071090

TO: Email: [BWERcomments@wildlife.ca.gov](mailto:BWERcomments@wildlife.ca.gov)

We hereby endorse alternatives 10 and 11 as described in our attached comparison chart of alts 1 and 10/11.

┌ O2-121

A legally sufficient EIR must contain a truthful and complete project description, an accurate and current baseline description, clear and unambiguous description of impacts on that baseline by the proposal, mitigation measures for all impacts that exceed significance thresholds, and a reasonable range of alternatives that can accomplish reasonable and legally allowable project objectives with the goal of accomplishing the proposal with the least unmitigable significant impacts.

┌ O2-122

Not surprisingly, this EIR fails in all of these categories. I will focus on a few of those areas which I find are egregiously in violation of CEQA.

**BASELINE:**

**BIOLOGY:**



JUNK SCIENCE--The existing biological condition is described as swiftly declining based on the scientific opinion methodology and expert which the CDFW rejected in 1991 when CDFW was acting as a regulatory agency reviewing a private landowner's proposal for this same land. Now that CDFW is the landowner, it has hired the same biological "expert" hired by the former developer. Thus the EIR mirrors that landowner's propaganda of the early 1990's that a swift approval of land use entitlements and their "restoration" plan was necessary or "the wetlands would die", especially those elevated habitats north of Ballona Creek. The CDFW is recycling that discredited claim to push its unnatural ocean bay creation proposal as opposed to a historically accurate freshwater restoration plan as described as Alternatives 10 and 11. **SEE ATTACHED 2/5/1991 CA DFG LETTER, page 2, 1<sup>st</sup> full paragraph:**

O2-123

"...In this regard, we specifically believe that normal to above-normal precipitation would result in rejuvenation of the existing approximately 20 acres of pickleweed flats; that it would result in conferring competitive advantage upon the pickleweed which continues to persist in the previously described 17 acres of species; that these 17 acres would reestablish themselves as pickleweed flats..."

O2-124

The Coastal Commission did not endorse the landowner's findings either.

On DEIR page 3.4-42: Dock and Schreiber in 1981 (Page B1-9) predicted the pickleweed in parcel A would decline to the point that no Belding's savannah sparrows would nest there.

**NOT TRUE, BSS NUMBERS ALWAYS REBOUND IN AVERAGE RAINFALL YEARS. CDFW IN 1991 INSISTED THAT THE STANDARD FOR HABITAT HEALTH SHOULD BE BASED ON AN AVERAGE RAINFALL YEAR. NOW CDFW USES DRY YEARS AS THE BASELINE AND NON HISTORICAL CONDITIONS AS THE BENCHMARKS FOR HABITAT HEALTH**

O2-125

On DEIR page ES-2: a portion of the Ballona Reserve has been identified as "among the most degraded wetlands in California" using standardized wetland condition protocols (Johnston, Medel, and Solek 2015).

**USING WHICH PROTOCOLS? WERE THE PROTOCOLS CREATED BY PROJECT BACKERS?**

O2-126

On DEIR page 3.4-62: a CRAM assessment by Karina Johnston (BF 2015) found "slowly deteriorating conditions from 2012 to 2014" (AS OPPOSED TO RAPID DECLINE CLAIMED BY BAY FOUNDATION'S TOM FORD FROM 2007 TO 2013) (SEE **ATTACHED Bay Foundation PRESENTATION**)

O2-127

"The assessment found that the most significant impact was a lack of hydrological connection to an estuarine water source."

This is judging the health of the habitat based on a contrived non-restoration standard, comparing it to a full tidal open ocean bay which Ballona never was.

↑ O2-127  
cont.

## GEOLOGY:

Again, in attempting to create the phony public perception that this land is "trashed" and thus it needs the extreme industrial scale bulldozing scheme, the EIR falsely claims in two graphic maps (DEIR pages 3.5-13, or 3.6-3) that virtually the entire site (A, C, and most of B) has been "filled" to various depths. The truth is admitted buried in text, (DEIR 3.6-6 in parcel B, most of fills are limited to Culver and Jefferson Blvd.) but that does not correct the false constantly repeated refrain by CDFW's partners the Bay Foundation and Heal The Bay that due to man's altering this land, only three percent is functioning habitat. Heal The Bay defines "functioning" as "full tidal", of which, even the EIR admits, very little of the Ballona Wetlands was full tidal when human alteration began.

↑ O2-128  
↑ O2-129

To the contrary, on page A-286: full tidal open water was only 3% of the historical Ballona Wetlands.

Further, it is strongly questionable that Parcel A is all fill as claimed by the DEIR. The 1991 Playa Vista archeology report shows most of parcel A as unfilled and "undisturbed surface". **SEE ATTACHMENT**

↑ O2-130

## WATER QUALITY:

The EIR relies on a non-existent plan that MIGHT eventually clean up the pollution in Ballona Creek to a level that it will be allowable to remove the protective levees which encase the urban river of crud and thus flood the now-clean Ballona Wetlands with this crud. Thus, the EIR assumes that upon commencement of levee removal, the creek will comply with health standards.

So, on DEIR page F6-29, you state: "No potential impact is anticipated if these pollutant reductions are achieved in accordance with the MS4 Permit."

THAT IS A BIG "IF". THERE IS NO EIR DETAILING SPECIFIC PROJECTS THAT WILL ENABLE

↑ O2-131  
cont.  
↓



COMPLIANCE WITH THE WET-WEATHER MS4 PERMIT AND TMDLS, WHICH IS WHEN 99% OF THE POLLUTION FLOWS DOWN THE CREEK. THERE IS NO CEQA ANALYSIS OF THE IMPACTS OF ALL THE REQUIRED PROJECTS, JUST OF A TINY FRACTION OF THEM. FINALLY, THERE IS NO MONEY TO CONSTRUCT THESE WET-SEASON CREEK WATER CLEANUP PROJECTS

O2-131  
cont.

ON GROUNDWATER: it has been documented by the violation order issued by the California Coastal Commission that the previous landowner illegally installed drains in a portion of the wetlands upon which they were seeking to fill and erect condominiums. Thus the historic wetness of this land was illegally drained away and thus the biological condition of the surface land was degraded by this illegal action. It is now an ugly coincidence that the illegal draining has continued in the 14 years of CDFW ownership and now that the land is drier CDFW seeks to fill in this land as part of its unnatural ocean bay habitat conversion scheme.

O2-132

Depriving the Ballona lowlands of freshwater will lead, as it has in the past, to more saltwater intrusion of the aquifer. I expect your response will be that the aquifer is currently not used, but that does not relieve the applicant of discussing this as part of the baseline. (See A-1097 NOP comment, first full paragraph)

O2-133

## **CULTURAL IMPACTS:**

The EIR states that there is only one Tongva cultural site on the property, DEIR page 3.5-27 paragraph 3, and that it will not be touched by the CDFW project. To the contrary, the former landowner's 1991 much more honest EIR revealed at least ten Tongva sites on the project area. A thread of this fact is revealed in Project Management Team 3/29/2010 meeting minutes on page A-176: "important burials located in Northwest corner of Area C"

O2-134

I am attaching the volume 23 of the Playa Vista Phase 1 project administrative record which has the previous project's archeology report. It is clear from the maps that Alternatives 1, 2 and 3 will desecrate these sites, either by excavation or deeply burying them.

THESE 9 CULTURAL SITES WERE NOT INCLUDED IN THE BWRP DEIR, BUT WERE FOUND BY PLAYA VISTA'S ARCHEOLOGIST IN THE PHASE 1/MASTER PLAN DEVELOPMENT PROJECT:

O2-135

--SR 2, WEST OF INTERSECTION OF CULVER-JEFFERSON

--SR 7, NW PARCEL C

--SR 8, NW OF LINCOLN/JEFFERSON INTERSECTION, SHELL SCATTER

--ISOLATED FIND 5, SAME LOCATION AS SR8

--SR 9, NE OF CULVER/JEFFERSON INTERSECTION, SHELL SCATTER



--SR 10. NE PARCEL B, BETWEEN CULVER AND BALLONA CREEK, SHELL SCATTER

--SR 11—PARCEL C WEST OF BALL FIELDS

--LAn-1698, NE PARCEL A

--ISOLATED FIND 1, WEST OF SR 7

O2-135  
cont.

(SEE PLAYA VISTA PHASE 1 ADMINISTRATIVE RECORD VOLUME 23, PAGES 13529-13530)

<https://drive.google.com/file/d/0B5SGRAMv8RXuS3FMZl84V01CRU0/view>

O2-136

So when the EIR says on page B3-14: "To the extent feasible, cultural resources within the Reserve will be avoided by project construction and will be protected."

HOW IS THIS AN ACCURATE STATEMENT?

O2-137

## **RECREATIONAL TRAILS:**

The BWRP EIR claims that there is no public access currently "allowed" on this land. There has been more than 50 years of continuous unblocked public use under the previous landowner. CDFW declared all trails closed in 2004, yet never analyzed the recreational impacts of this closure under CEQA at the time. In fact, the true baseline under prescriptive rights in California easement law is that these trails are all open and continuously publicly used. Thus, re-opening of some of the trails cannot be cited as a project feature or benefit as the public right was never legally taken away.

To claim that the closure of recreational trails did not have to comply with CEQA at the time, yet the re-opening of them is a mitigation for impacts, shows that illegal piecemealing has occurred. CDFW has altered the "baseline" to create an illusory and false project benefit that is being offered in exchange for public acceptance of its massive bulldozing project, cynically offering back a right that already belongs to the public.

O2-138

## **ALTERNATIVES:**

OVERLY NARROW PROJECT OBJECTIVES:

The problem with the EIR's review of lesser impacting alternatives is that, first, the applicant has so narrowly defined its project goals that nothing but their favored project complies with it.

O2-139

Second, the project goal of creating a predominantly estuarine ocean bay from a freshwater delta region is admittedly not a restoration. As the California Coastal Act only allows "restoration" in section 30233, the main goal which all the rejected alternatives are judged by is not in itself a legally allowable goal. The project's main goal would actually be considered an unpermitted development scheme under the Coastal Act. When the name of this project is the "Ballona Wetlands Restoration Project", why are more historically accurate and less habitat destroying alternatives which fit the legal definition of "restoration" being judged by a "non-restoration" standard?

O2-140

#### SELF-SERVING AND WRONG DEFINITION OF "RESTORATION":

On page B3-12, CDFW states: "It should be noted that the proposed restoration includes elements of both habitat restoration and habitat creation...Some aspects of the restoration plan involve "restoration" in the sense of recovering historical conditions. However, most aspects of the restoration plan involve reestablishment of natural processes and ecological functions and either habitat creation (i.e., creating a particular type of habitat where it previously did not exist) or habitat enhancement (i.e., modification of existing conditions). However, to avoid over-complicating the Conceptual Plan, the term "restoration" is used throughout the text and is meant to encompass all of these elements and not only the re-creation of a historical condition. "

O2-141

To the contrary, on page F3-47: "Habitat restoration is defined as the return of a habitat to a close approximation of its condition prior to disturbance and habitat enhancement is the modification of specific structural features to increase one or more functions based on management objectives (USEPA, 2005). "

WHOSE GOALS? Elsewhere, it is revealed that the Port of L.A. funded some of the early studies with the stated goal being to eventually receive CDFW mitigation credits from work to convert the Ballona Wetlands to an open bay. Even though the Port of LA is not currently mentioned as a funder of this project NOW, it appears that Alts 1 to 3 are designed to attract mitigation funding from fillers of deep ocean water habitats.

O2-142

#### ARE THESE THE PUBLIC'S GOALS?

On DEIR page ES-8, the applicant states: "the daylong stakeholder design cherette "supports" the CDFW objectives"

Please provide minutes or other contemporaneous notes from this cherette that proves this assertion. I and other people I work with attended that all day cherette and remember that the overwhelming public opinion was against the massive industrial scale bulldozing scheme now advocated by CDFW.

O2-143

#### DOUBLE-STANDARDS:

The rejected alternatives are held to standards that the favored alternatives do not have to comply with. For example, alternative 2 will be flooded by sea level rise (DEIR page 1-13), but alternative 5 is dismissed as “unreasonable” on DEIR page 2-198 for doing the same thing.

2-197: alt 5 is described as the max amount of habitat improvement possible without modifying site elevations or hydrologic connections

BUT THIS IGNORES HABITAT IMPROVEMENT FROM PIPING IN FRESHWATER

2-197: alt 5 is “too speculative” (A CONCLUSORY STATEMENT WITH NO FACTS TO SUPPORT IT)

2-201: under alt 5, “sea level resilience would be limited” (THIS IS NOT A BASIC OBJECTIVE, SEE 2-8)

O2-144

In fact, sea level rise is a red herring issue, as even under the no project alternative, the existing creek levees are sufficient:

DEIR 3.9-18 paragraph 3: in year 2100, sea level is expected to rise by 59 inches, but the existing Ballona Creek levees would still contain a 100 year flood except at the south side beach, which is not part of the Ballona Wetlands property.

Thus, sea level rise will have no effect on the wetlands whichever alternative is chosen. Conversely, after 2100, the proposed relocated levee system will provide the same protection as our existing, already paid-for levees.

See maps on F9-33

O2-145

So why spend \$180 million to move uplands from area A to B and to move wetlands from area B to A?

O2-146

2-202: the DEIR states alt 6 “would not substantially restore ecological functions to predominantly estuarine wetland conditions” (THIS IS A BOGUS ARGUMENT. YOU CAN'T RESTORE IT TO WHAT IT NEVER WAS. THUS THIS IS AN INVALID REASON TO RULE AGAINST ALT 6)

O2-147

Alternatives 10 and 11 are ruled out based on extremely expensive project components which

O2-148



were suggested by one or two persons in NOP comments, but which are not essential to the basic objectives of the two alternatives. Alt 10 is re-watered with pumped clean freshwater from wells or treatment of creek water. Alt 11 is going back to historical hydrology of a freshwater delta system. The purchase of \$400 million in private land or demolition of a section of the 90 freeway were not suggested by any NOP commentors in relation to these alternatives. Thus, the attribution of these extremely expensive and/or disrupting features is not "reasonable" but is a "straw man" erected by CDFW to bamboozle the EIR's readers.

O2-148  
cont.

On DEIR page 2-231 and 232: alt 10: "the historic water regime is no longer available to make large amounts of freshwater or brackish marsh self sustaining. Many of the suggested alternatives therefore rely on mechanical means to create and maintain them." (WHY DOES IT HAVE TO BE SELF SUSTAINING? DFW DOES PUMPED RESTORATION PROJECTS ALL THE TIME. LOOK AT PLAYA VISTA'S RIPARIAN CORRIDOR—IT'S ALL ALL PUMPED WATER MOST OF THE YEAR) CDFW is a board member of the Ballona Wetlands Conservancy, which operates the Playa Vista Riparian Corridor and Fresh Water Marsh. So CDFW is estopped from claiming pumped water restorations don't work.

O2-149

2-232: alt 10: fewer restored acres would result under alt 10 than under alt 1 (BASED ON ALT 10 AS CDFW DESIGNED IT, TO FAIL)

2-232: alt 10 features super expensive road raising projects that could cost up to \$200 million just to raise the roads

O2-150

RESTDY ALT 10 WITHOUT THE EXPENSIVE ROAD-RAISING. THE TWO THINGS HAVE NOTHING TO DO WITH EACH OTHER.

2-236: alt 11 would require purchase of 13.9 acres at a cost of \$412M

BASED ON SELECTED SUPER EXPENSIVE PROPERTIES CHOSEN BY CDFW, NOT BY PUBLIC NOP COMMENTORS

O2-151

2-236--ALT 11 "would create surface disturbance in areas that are potentially sensitive from a cultural resources perspective" (UNLIKE ALT 1????)

THE HISTORICALLY ACCURATE FRESHWATER RESTORATION PLAN AS DETAILED IN THE ATTACHED 3 PAGE BEEP PROPOSAL IS FEASIBLE, CONTRARY TO THE EIR CLAIM THAT IT IS NOT FEASIBLE. AT THE TIME OF THE NOP, THE Ballona Creek BACTERIAL TMDL TREATMENT FACILITY HAD NO PLANS, NO EIR,

O2-152

NO FUNDING. Now it does.

↑ O2-152  
cont.

Now that we have shown that a freshwater restoration plan is possible and feasible, the EIR would be deficient if it did not give such an alternative a full analyses and eventually finding that it is the environmentally superior under CEAQ and least environmentally damaging plan under NEPA.

↓ O2-153

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## **BEEP'S RESTORATION VISION:**

BEEP's restoration vision was drawn up in 1995 by community members and two scientists, Dr. Rimmon Fay, a marine biologist and former Coastal Commission member, and Dr. James Henrickson, botanist and author of Playa Vista's 1991 plant surveys.

↓ O2-154

The BEEP alternative is discussed in Appendix A-2, pages 2065-2137 and Draft EIR pages 2-331 to 339 which are posted here: <http://tinyurl.com/ballona-eir> (as are all 8000 pages of project reports).

↓ O2-155

Alternative 1, being pushed by the State Department of Fish and Wildlife, owner of this public land, is billed as "Bringing Back Ballona", however, it is to what it never was, for almost \$200 million.

We describe the THE BEEP ALTERNATIVE #10/#11 as

"No Destruction, All Restoration. Fix What Needs Fixing, Keep What Is Working"

Pictures are posted here <http://saveallofballona.org>

↓ O2-156

It is hard to expect the public to read all of the 8000 pages of project reports by February 5th. However, here is how the two plans compare:

BEEP PLAN SUMMARY: the 1-year-to-success plan:

BEEP's Project features 3 parallel creek channels to restore the historical "delta" geography: the existing channel in the middle for floods, tsunamis and pollution; 2 new smaller shallow outside channels for clean

↓ O2-157

habitat. The existing Ballona Creek levees will remain where they are, protecting the wetlands north and south of the creek from polluted urban street drainage.

The wetlands and higher ground on each side of the existing Ballona Creek levees will be re-watered with clean water from the Ballona Creek dry season treatment plants in Culver City (subject of an EIR last fall, construction expected in 2018); water will flow by gravity from the 3 upstream plants via a pipe on each creek levee to the restored parallel creeks.

Street drainage water pumped from the upper creek into the filtration and disinfection facilities will then flow downhill to the lower creek wetlands, similar to Playa Vista's Centinela Creek re-creation and Freshwater Marsh System which relies on pumped and treated groundwater for all flows except on rainy days.

#### CAN THE PUMPS FAIL?

Playa Vista's pumps have not failed, however, they were turned off for a while in 2016 by Playa Vista and the State's CDFW creating a smelly mess due to stagnation and cattail blockages occurring because there was not being enough capacity in the re-creation of Centinela creek. (Playa Vista's too narrow design for this creek left more land for development, thus the smells in 2016 were a self-created problem)

To see a similar project in which restored wetlands are kept separate from the urbanized flood control channel, visit Lower Arroyo Park in Pasadena.

A "parallel" creek system at Ballona would allow flood waters and tsunamis at Ballona to be contained within the central and already paid-for protective levee system without subjecting the currently protected wetlands to pollution and flood damage and subjecting nearby low-lying neighborhoods to 9 years of construction and dust and permanent view blockage from 20 to 55 foot tall mounds of dirt along Culver and Jefferson Blvds.

BEEP'S PLAN FEATURES MINIMAL EARTHMOVING ONLY IN 95% OF SITE: to distribute clean piped-in freshwater from water treatment plants (currently slated to be dumped straight into the ocean) to restore the land to approximately what it was before European settlement of this area 200 years ago. Trash and invasive non-native plants will be slowly removed mostly by hand. Re-planting of willow tree groves will begin immediately near freshwater "inlets". Willows grow 8 to 10 feet a year. Land does not need to be excavated as freshwater source is at 65 feet above sea level, thus areas at Ballona ranging from 3 to 20 feet high can receive restorative freshwater by gravity flow without the need to excavate down to sea-level. Cost is likely \$10 million or less.

#### BEEP'S PLAN ALSO INCLUDES 20% OF THE SITE AS RESTORED SALTWATER HABITAT:

20 percent of the land was historically tidally-influenced saltmarsh and lagoons (120 acres out of the 577 acre project, Source: Volume 1 DEIR page 2-3: footnote 17), this the plan includes:

—SOUTH WETLANDS/PARCEL B: Additional pipes with flapgates to prevent overflows will be bored

O2-157  
cont.



through the levees to provide muted tidal oceanwater flow to the low lying wetlands on the south side of the creek which are north of Culver Blvd;

–MIDDLE WETLANDS: the 84 acre main channel of Ballona Creek currently receives full tidal flow and its inner banks will be re-vegetated;

–NORTH WETLANDS/PARCEL A: finally, up to 1/4th of the north wetlands located on dug-out Marina Del Rey mud could receive full tidal flow through pipes and flapgates. This would require excavation of approximately 12 feet of mud from 30 acres of land (only on 5% of the total project site). This could be used to eventually raise the creek levee heights by 5 feet to accommodate sea level increases, if needed.

10 TONGVA Cultural sites will be left alone; no change

VIEWS UNDER THE BEEP PLAN: Parcel C wildflower areas and uplands will NOT be buried with 25 feet of dirt to elevation of 55 feet, which would block southerly views from Villa Marina neighborhood. Parcel B wetlands will not be buried by 20 to 25 foot mounds. Views of wetlands from Playa Vista community will not be blocked.

O2-157  
cont.

A SUMMARY OF THE STATE'S PLAN, Alternative 1: it features 9 years of heavy earthmoving and wildlife destruction to convert a degraded historically freshwater creek delta system, which originally featured salt marsh, freshwater and drier upland habitats, into a mostly deep ocean saltwater zone at a cost of at least \$182 million in taxpayer funds.

O2-158

It is not historically accurate, thus it is NOT A "RESTORATION" PROJECT. Therefore it violates the voter-drafted California Coastal Act which only allows "restoration" of a wetland to what it was before urban settlement damaged it.

O2-159

Alternative 1 requires excavation of the site down to sea level or below to flood it with ocean water based on the MISTAKEN ASSUMPTION THAT NO CLEAN FRESHWATER SOURCE IS AVAILABLE to do a historically accurate restoration.

ALTERNATIVE 1 FLOODING AND POLLUTION: Already paid-for protective creek levees will be demolished. They are unnatural, but they prevent even-less-natural highly polluted urban street drainage from contaminating the wetlands. During rainstorms, the Wetlands will be flooded with polluted water from Ballona Creek turning the area into a bacteria and metals "sink". Although the creek is promised to be fully clean by April 2021, there is no plan to do this, except during the dry season when 1 percent of pollution washes down the creek.

O2-160

TO CLEAN UP THE OTHER 99% OF CREEK POLLUTION: Cost of rainy-day creek cleanup is estimated by LA City Sanitation Dept. to be \$3 billion, but there is no EIR examining the impacts of their plans to dig

up every park and street in the Ballona creek watershed in order to percolate and divert most water (and thus the pollution) away from the creek drainage system, which will largely dry up freshwater sources for wildlife using the creek which could potentially flow to the wetlands. (THUS THE "NEED" FOR A SALTWATER ONLY PLAN)

O2-160  
cont.

TONGVA SITES UNDER THE STATE PLAN: 10 Native American cultural sites were ignored in the EIR; they will be either excavated or buried under Alternative 1

O2-161

VIEWS UNDER THE STATE PLAN: Locations of large areas of wetlands and uplands will be switched. 20 feet of soil from north side of Ballona Creek will be dug up, transported to south of Ballona Creek marsh areas and east of Lincoln Blvd wildflower areas to create 25 to 55 feet above sea level hills (which were never at Ballona). New Parcel B levee north of Culver Blvd from Vista Del Mar neighborhood to Lincoln Blvd will block views of the wetlands for everyone at street level.

O2-162

FINALLY, TWO BIG ISSUES:

RECREATIONAL TRAILS UNDER ALTERNATIVE1:

THE STATE PLAN FIXES A SELF-CREATED PROBLEM: On Draft EIR Vol. 1 page 3.11-12, they state: "Alternative 1 would provide a network of bike and pedestrian paths and public access to portions of the Ballona Reserve that are inaccessible under existing conditions. This would be a long-term beneficial effect." The EIR does not mention that all the trails were closed by the State Fish and Game Commission in 2004, despite over 50 years of use by the community; many of those trails are slated to be flooded by the State's preferred plan.

O2-163

BEEP PLAN: The surrounding community will decide which of the miles of existing but "closed" trails will remain.

O2-164

SEE PAGE 11 OF <http://www.idarchitect.com/wp-content/uploads/Ballona.pdf> FOR "EXISTING" TRAILS AND PUBLIC ACCESS. DOCUMENT WAS CO-PUBLISHED BY CDFW in 2005

O2-165

SEA LEVEL RISE IMPACTS UNDER THE STATE PLAN: Wetlands will be exposed to damage from sea level rise; 5 feet expected by 2100. Seasonal salt and freshwater wetlands and restored upland habitats will be drowned by the ocean, and those remaining after construction of the plan will be eventually submerged by sea level rise; all of this reducing nesting and hiding places and drinking water sources for mammals, butterflies, birds, reptiles and amphibians. 3 native habitats will be reduced to largely 1.

O2-166

SEA LEVEL RISE UNDER THE BEEP PLAN: Wetlands will remain protected by Ballona Creek levees which are considered adequate for the expected 5 foot rise by 2100. If things change, levees can be raised. Sea level rise will have no negative effect on Ballona preserve

O2-167



Jones, Tanya

---

**To:** McCormick, Donna  
**Subject:** RE: Ballona Wetlands restoration project DEIR-EIS scoping comments

**From:** Rex Frankel [<mailto:rexfrankel@yahoo.com>]  
**Sent:** Tuesday, October 23, 2012 2:43 PM  
**To:** [Daniel.p.swenson@usace.army.mil](mailto:Daniel.p.swenson@usace.army.mil); McCormick, Donna  
**Subject:** Ballona Wetlands restoration project DEIR-EIS scoping comments

October 23, 2012, 2:42pm

Here is a 66 page pdf of our comments on the NOP-NOI for the Ballona Wetlands project.

It explains the need for analysis of a historically accurate alternative that is based upon conditions approximately 200 years ago, as opposed to the State's preferred alternative which is based on returning to conditions 4000 years ago.

If you have trouble reading our attached comments, they are posted here:  
<https://picasaweb.google.com/Rare.Earth.fotos/BallonaAlternativePlan>

Thank you,

Rex Frankel  
President, Ballona Ecosystem Education Project  
6038 west 75th Street  
Los Angeles, CA 90045  
310-738-0861

O2-168

## Public Access and Recreation



### Description

#### Biking

- There is a lot of bicycle parking located at Fisherman's Village. Bicycle parking elsewhere is non-existent and results in bikes being locked to fences along the perimeter of the planning area.
- Illegal and destructive bicycle access into and within the wetlands by BMX riders is a problem.
- East/west bicycle access is provided via off-street (Class I) bikeway along the northern levee of Ballona Creek Channel.
- North/south bicycle access is provided via the Coastal Bike Trail.



*Bike path along Ballona Creek*



*BMX jumps in area C*



*Bike parking in Fisherman's Village*

O2-169



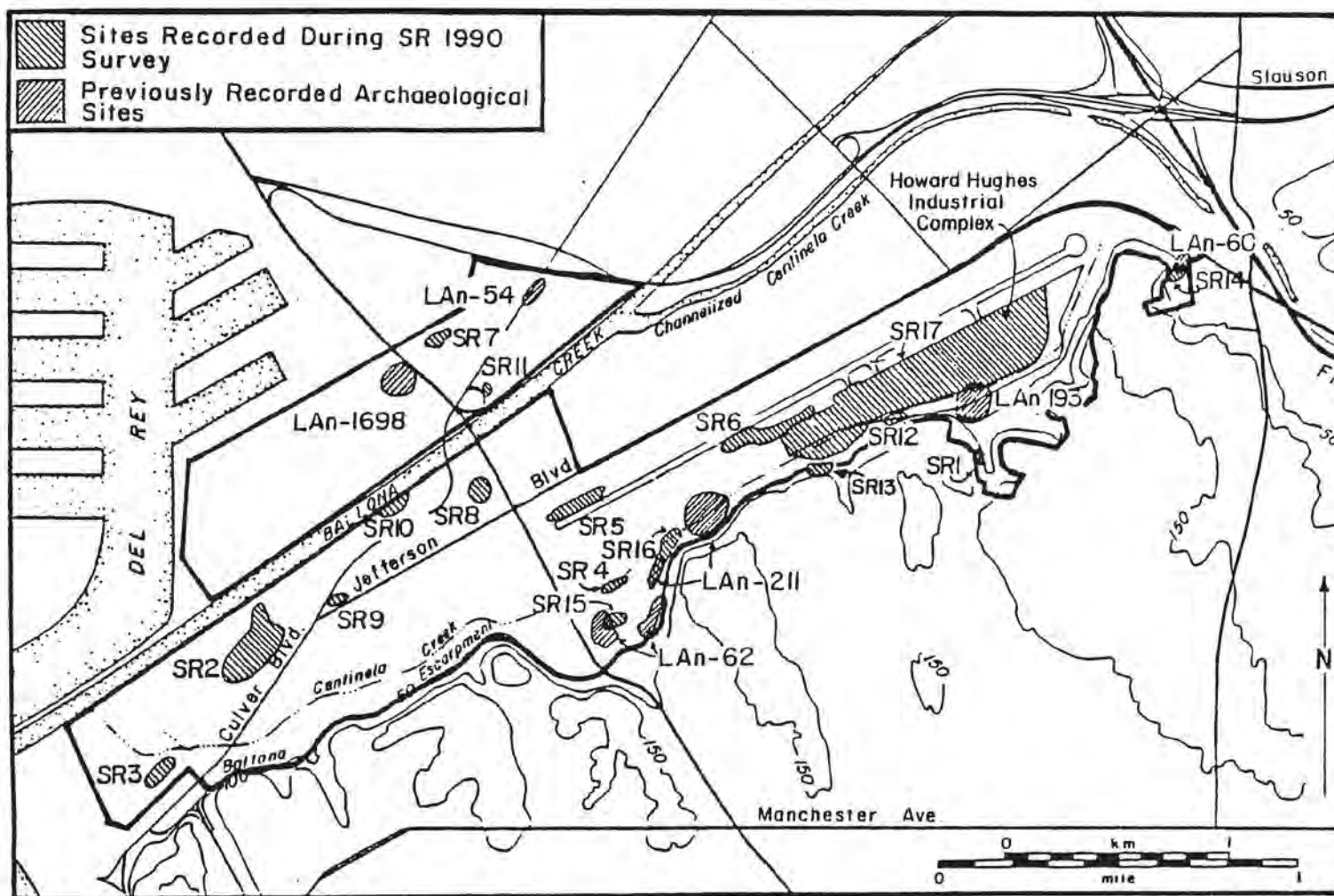


Figure 49. Map Showing the Boundary of the Playa Vista Project Area with Previously Unrecorded Cultural Loci (SR #) and Isolated Finds and Recorded Cultural Sites (LAN #) Identified During the Cultural Resources Survey, August-September 1990.



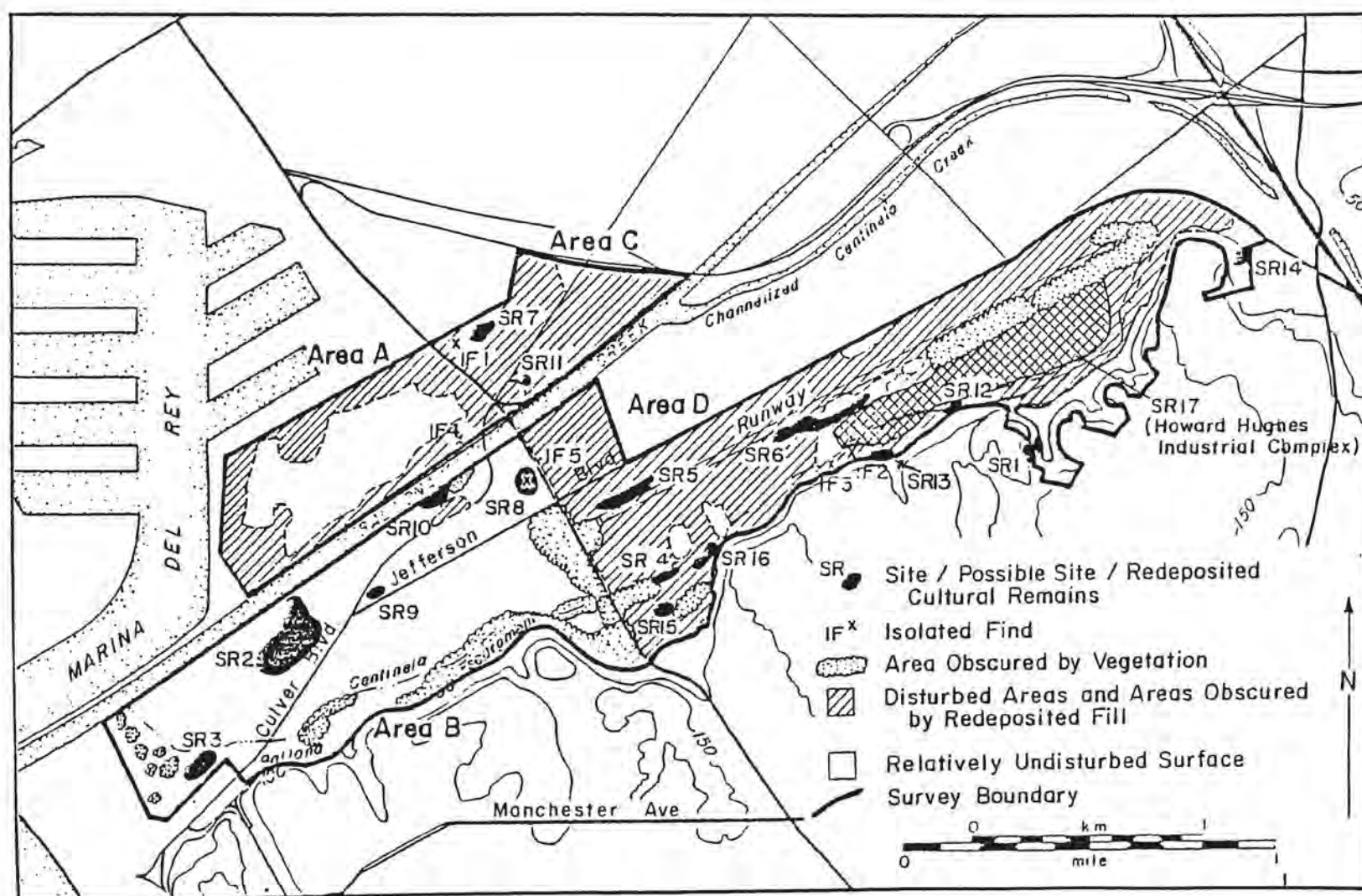


Figure 50. Map Showing the Locations of Previously Unrecorded Cultural Loci and Isolated Finds Identified during the August-September 1990 Cultural Resources Survey in Relation to Existing Surface Conditions.

2/14/2018

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BALLONA ECOSYSTEM EDUCATION PROJECT....SaveAllofBallona.org

**WHAT WE ARE FIGHTING FOR:**

SHOULD WE RESTORE BALLONA NATURE IN 10 YEARS OR 1 YEAR?

FOR \$180 MILLION OR FOR AN AFFORDABLE PRICE?

MUST ALL WILDLIFE AND PLANTS AND ARCHEOLOGICAL SITES BE WIPED OUT

OR CAN WE JUST CLEAN UP TRASH, PULL WEEDS, DO MINOR PLUMBING REPAIRS, AND ADD CLEAN FRESH WATER?

Monday, January 02, 2017

BALLONA ECOSYSTEM EDUCATION PROJECT

A Project of Mount Rexmore Progressive Resource Center, [REXMORE.ORG](http://REXMORE.ORG)

A California non-profit corporation

P.O. Box 451153, Los Angeles, CA 90045

Litigation and Education to Protect Our  
Remaining Open Spaces, Since 1985

**WILDLIFE OF BALLONA**

[https://drive.google.com/file/d/18NcQrj\\_XZUnh4fhCGEv64t68JHW5FXQ/view](https://drive.google.com/file/d/18NcQrj_XZUnh4fhCGEv64t68JHW5FXQ/view)

**TAKE ACTION NOW!**

BWERcomments@wildlife.ca.gov is where to send your email by midnight on February 5th.

Tell our State's Ballona park managers you want a historically accurate, non-destructive 1-year restoration of our 630 acre Urban wilderness. PLEASE Endorse our Alternative 10/11. It, and the State's destructive Alternative #1 are explained further in volume 1 of the project's 8000 page summary. <http://tinyurl.com/ballona-eir>

**READ ABOUT BOTH PLANS**

<https://drive.google.com/file/d/11FGHy40pwao6i18zsoxcDK2GLcwJVvXr/view>

Our Executive Director's land preservation blogs:

 **RARE EARTH NEWS**  
ConnectingCalifornia.org  
SLO Ranch saved by Coastal Conservancy, another deal is delayed  
6 hours ago

 **Rex Frankel, J.D. (@texfrankel)**  
on Twitter

Pages

Blog Archive

2/14/2018

WWW.SaveAllofBallona.org

1/22/2018: A Big victory for fans of the Ballona Wetlands on Monday: the governing board of LA's revered parks creator, the Santa Monica Mountains Conservancy, unanimously rejected endorsing the industrial scale, 9-years of earthmoving, wildlife- wipeout fake restoration plan despite heavy lobbying by state bureaucrats eager to blow \$180 million of our taxes on a project rejected by locals, the Sierra Club and the LA Audubon Society. Here's the audio:  
<https://soundcloud.com/rex-frankel/smmc-meeting-01-22-2018>

ENVIRONMENTAL  
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▼ 2017 (1)  
 ▼ January (1)  
 ▼ Jan 02 (1)  
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Project  
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O2-171  
cont.

CA Coastal Commission Slaps Around Developer For Illegally Drying Up Our Wetlands

A 4 Minute video, 12/14/2017

CCC Dana Point - Rex Frankel BEEP - Restoring Freshwater to Bal...



photos and maps:

<https://photos.app.goo.gl/ZCMg227x57HJzA3m2>

TO READ THE "RESTORATION PLAN" DOCUMENTS: <http://tinyurl.com/ballona-eir>

OUR STATEMENT AT THE 11/8/2017 PUBLIC HEARING ON THE BALLONA WETLANDS RESTORATION PROJECT:

"Of all the alternatives, if #3 eliminated the dredging of Parcel A and featured historically accurate



2/14/2018

WWW.SaveAllofBallona.org

small creeks in it, there would be something I could endorse. Unfortunately, the current Alternatives 1, 2 and 3 are intolerable and are not restorations by any credible standard.

My message to you is this: YOUR PLAN SIMPLY SWITCHES THE LOCATIONS OF THE PARCEL B WETLANDS AND THE PARCEL A UPLANDS.

THIS SWITCHEROO IS A HUGE WASTE OF OUR MONEY.

RESTORE THE BALLONA WETLANDS...WHERE THEY ARE NOW.  
RESTORE THE BALLONA UPLANDS...WHERE THEY ARE NOW.  
YOU DON'T NEED TO DESTROY BALLONA IN ORDER TO SAVE IT

THERE ARE MANY LEGAL DEFICIENCIES IN THIS DRAFT EIR.

YOUR PROJECT VIOLATES THE COASTAL ACT. Because it's not a restoration and that's all the Coastal Act allows.

YOUR PROJECT VIOLATES THE U.S. CLEAN WATER ACT: because it floods the wetlands with polluted street runoff, with no plan to clean it up. It is illegal to degrade the water quality in federally delineated wetlands, which is what the Ballona Wetlands are.

YOUR PROJECT ALSO VIOLATES CEQA, in that it fails to include or analyze an essential part of the project, which is the Clean Water Act-mandated street runoff cleanup plan that must be implemented before you can tear down the levees and flood the wetlands with water from Ballona Creek.

You have no plan to clean up 99% of the flow of Ballona Creek (which comes on rainy days), no EIR, and no analysis of its impacts or whether it will ever happen.

The only plan that exists is to clean up flows in the dry season, which is not when most of the pollution and trash flows down the creek. This plan will mostly dry up the creek in the dry season by pumping three quarters of creek flows to Hyperion which will dump it in the ocean. A WASTE. Then your own EIR says it will be too difficult to provide freshwater to the wetlands, so you dismiss all freshwater alternatives as "MECHANIZED" OR HIGH MAINTENANCE. But that problem of lack of freshwater is created by your partners in the Wetlands restoration project LA City's Sanitation Department which chairs the SMBRC, which created the Bay Foundation, and the LA County Flood Control District. BY THEIR "MECHANICALLY" DRYING OUT BALLONA CREEK during most of the year. (As stated in their Ballona Creek Bacteria TMDL Project DEIR released August 2017, CA State Clearinghouse number 2017021047)

So you dismiss reasonable alternatives by using a "straw man" argument.

YOU CAN FIX ALL THESE LEGAL VIOLATIONS THIS WAY:

give us a historically accurate project, thus it will fit the definition of "restoration" and comply with the Coastal Act.

Don't flood our wetlands with polluted cruddy Ballona Creek stormwater which may never be cleaned up. INSTEAD: Pipe the clean flows during the dry season from the new Ballona Creek dry season treatment plant in Culver City to restore the historical freshwater marshes of the Ballona Wetlands.

Because you won't be flooding the wetlands with pollution, you won't violate the US Clean Water Act. Because upstream polluted stormwater will not flow into the Ballona Wetlands, an upstream rainy season creek water cleanup plan is not an essential part of your project, thus, you will then not violate CEQA by deferring analysis of what is no longer an essential part of your project.

Finally, by leaving most of the land at Ballona where it is, (leaving the wetlands where they are now, leaving the uplands where they are now), you will avoid destroying thousand year old archeological sites or desecrating graves as the Playa Vista developer discovered. You will avoid evicting the wildlife while engineering firms and their friends "Heal Their Wallets" at our expense.

Please listen to the groups who saved over 600 acres when others were willing to let it be paved. This current plan is not "Bringing Back Ballona". Let's actually restore Ballona, not turn it into something it never was."

-----  
SUCCESS! We have saved over 70% of the  
Ballona Wetlands Ecosystem through our  
work begun in 1985!



QUICK LINKS:

**MOST ACTIVE ISSUE:**  
**Restoration Planning**

-----  
**Current News**

DAILY UPDATES:  
[Twitter.com/rexfrankel](https://twitter.com/rexfrankel)

-----  
**History**

OUR ENVIRONMENTAL RESEARCH LIBRARY:  
<http://ballona.blogspot.com/p/ballona-environmental-library.html>

**S.M. Bay Water Pollution Cleanup**

2/14/2018

WWW.SaveAllofBallona.org

## Native Plants Information and Photos

### Index of All Posts on Site

Posted by Rex Frankel at [11:22 PM](#)



[Home](#)

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### Tweets by @rexfrankel



**Rex Frankel, J.D.** @rexfrankel

Not likely for LA Waterkeeper to accomplish their connected creeks goal with all the Ballona bulldozing supporters they are hanging out with: [lawaterkeeper.org/saving-socals-...](http://lawaterkeeper.org/saving-socals-...) That's why I'm partnering with Sierra Club and LA Audubon instead [saveallofballona.org](http://saveallofballona.org)

Feb 11, 2018

Rex Frankel, J.D. Retweeted



**savetheredwoods** @savetheredwoods

The Grove of Old Trees in Sonoma County is growing. With the help of the League & @LandPaths, this protected island just got 50% larger. Read more: [bit.ly/2BME8ne](http://bit.ly/2BME8ne) #GiantThoughts

**The Grove of Old Trees is Growing | Save the Redwo...**

The Grove of Old Trees is a 33-acre "island" of ancient redwoods surrounded by vineyards and homes in Sonoma County. And, with the help of Save the Redwoods League [savetheredwoods.org](http://savetheredwoods.org)

[Embed](#)

[View on Twitter](#)

### The Most Recent News Update:



**Ballona News**

When polluters and funders design a wildlife preserve's restoration plan, what do ya get?

- \*Three Competing Visions for the \* \*Ballona Wetlands\* Under the law in California, (the California Coastal Act), the Ballona Wetlands cannot be developed, ....

2 years ago

Watermark's Theme, Powered by Blogger



State of California

# Memorandum

To: The Honorable Douglas P. Wheeler  
Secretary for Resources  
Resources Agency  
1416 Ninth Street  
Sacramento, CA 95814

Date: February 5, 1991

RECEIVED  
FEB 11 1991  
CALIFORNIA  
COASTAL COMMISSION

From: Department of Fish and Game

Subject: U.S. Army Corps of Engineers Public Notice 90-426EV, Residential and Commercial Development in the Ballona Wetlands and a Mitigation Proposal, Los Angeles County

The Department of Fish and Game has reviewed the subject Corps Public Notice which involves fill deposition in 15.5 acres of wetlands at the Ballona Wetlands located north of Los Angeles International Airport and adjacent to the Ballona Flood Control Channel. Of the 15.5 acres to be filled, 11.5 acres will be permanently filled; 7.8 acres to support buildable space for commercial and residential development, and 3.7 acres as a result of berm construction associated with creation/restoration of a 52-acre freshwater wetland system. The 52-acre freshwater wetland system would be composed of a 27-acre freshwater marsh located adjacent to and west of Lincoln Boulevard and a 25-acre riparian corridor extending along Centinela Creek east of Lincoln Boulevard.

The Department has worked closely with the applicant (Maguire Thomas Partners) during the evolution of plans for the 52-acre freshwater wetland system as well as during the evolution of the overall future restoration of the Ballona Wetlands. There is little doubt that with water of appropriate quantity and quality, the proposed 52-acre wetland system will work and that it will provide valuable habitat to wildlife resources. Further, the Department believes that the proposed future overall restoration of the Ballona Wetlands is well-conceived and technically and biologically feasible in either of its primary iterations (i.e., the full-tidal and muted-tidal versions). Lastly, the Department has agreed, and continues to agree, that the proposed 52-acre wetland system would provide adequate compensation for the net fill of 11.5 acres of wetlands south of the Ballona Creek Channel. However, the Corps' Public Notice and the requested permit contain elements with which this Department strongly disagrees. Unless the permit is either revised as discussed below, or held in abeyance without prejudice pending action of the California Coastal Commission on the overall Ballona Wetland/Marina Del Rey/Playa Vista Land Use Plan, then we would recommend that the requested permit not be issued.

Of concern to this Department is that the Corps' Public Notice repeatedly indicates that the proposed 52-acre wetland restoration project would be used not only to offset the net loss of 11.5 acres of wetlands south of Ballona Creek Channel, but that it

EXHIBIT NO.	4
APPLICATION NO.	5-91-463
DFG COMMENTS	
5 PAGES	
California Coastal Commission	

003017

Route 90  
vol 14

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The Honorable Douglas P. Wheeler -2-

February 5, 1991

would produce a "mitigation bank" with a sufficient credit balance to offset the effects of "the construction of the entire Playa Vista Project" (page 4 Corps' Public Notice). The Corps has identified 9.8 acres of wetland in Area A west of the Ballona Creek Channel, whereas the Department has (in 1982) identified the existence of approximately 40 acres of wetland in Area A. Recent inspection of this site by Department personnel indicates the present existence of approximately 20 acres of dense pickleweed (*Salicornia virginica*) flats; approximately 17 acres of former pickleweed flats, located generally adjacent to the more densely vegetated flats, which are now dominated by nonhydrophytic species but in which sparse pickleweed patches continue to persist; and approximately 4.5 acres of unvegetated flats which continue to pond water after rains.

For these reasons, the Department has concluded that, of the approximately 40 acres of wetlands which we identified in 1982, 20 acres continue to exist as saltmarsh; approximately 17 acres have been invaded by nonhydrophytic plants and are not presently functioning as wetlands; and portions of the 4.5 acres of salt flat continue to function as wetland. The Department believes that the changes in the character of Area A which have occurred since 1982 are primarily related to the effects of five consecutive years of significantly below normal precipitation. Wetland areas in many portions of the State are presently in a state of contraction in response to drought. Consequently, we do not find it surprising that the wetlands of Area A have contracted in the intervening years between 1982 and the present. We fully expect that if the Marina Del Rey area experiences several consecutive years of normal to above-normal rainfall, the wetlands would expand to approximate their 1982 extent and relative condition. In this regard, we specifically believe that normal to above-normal precipitation would result in rejuvenation of the existing approximately 20 acres of pickleweed flats; that it would result in conferring competitive advantage upon the pickleweed which continues to persist in the previously described 17 acres of former pickleweed flats which are now dominated by nonhydrophytic species; that these 17 acres would reestablish themselves as pickleweed flats; and that at least portions of the 4.5 acres of saltflat would be periodically inundated to a degree and for a duration sufficient to enable their identification as wetlands. Therefore, we continue to believe that approximately 40 acres of wetlands would be present in Area A given normal rainfall.

Taking into consideration the existing nature of Area A, we find that approximately 20 acres are presently functioning as pickleweed-dominated saltmarsh, that no less than 20 acres of wetlands presently exist in Area A, and that the Corps' identification of 9.8 acres of wetland in Area A seems to be a result of a narrow application of the Corps' identification procedures after 5 consecutive years of drought. This is not meant to imply that the Corps' staff has misapplied the Corps' wetland identification procedures, rather the Corps' identification of 9.8 acres of wetlands seems to merely point out

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cont.

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The Honorable Douglas P. Wheeler -3-

February 5, 1991

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cont.

that the Department's long-standing concerns regarding application of the Corps' wetland identification procedures have been well-based.

Aside, from our concerns regarding Area A, we find that the mention of a mitigation bank on page one of the Corps' Public Notice and elsewhere, without discussion of its precise magnitude and use is highly problematic. We also find that the statement on page 1 of the Corps' Public Notice that the construction of the 52-acre freshwater wetland system will: "satisfy the settlement agreement of the lawsuit between the Coastal Commission and the Friends of Ballona" is not consistent with our understanding of the terms and conditions of that settlement agreement. The agreement involves numerous facets, including the restoration of the entire Ballona Wetlands area, and is clearly not limited to the construction of the 52-acre freshwater wetland system.

Another area of significant concern involves the proposal that one of the functions of the 52-acre marsh will be "to cleanse urban run-off". We must strongly object to this function being a part of the permit if the marsh is also to serve as a mitigation area for unavoidable impacts to wetlands. The primary use of a wetland mitigation area must be to serve fish and wildlife purposes. All other uses must be subservient to this purpose. In the case at hand, we find the flood control function to be consistent with the primary wetland mitigation purpose for fish and wildlife resources. However, the quality of urban run-off in areas leading to Santa Monica Bay including the sources leading to the proposed mitigation area have been known to be extremely variable. These drains have been shown to contain heavy metals, petroleum products, other toxic material, and trash all of which are known to adversely impact fish and wildlife resources. In order for urban run-off to be an acceptable water supply for the proposed wetland mitigation area, adequate treatment of this waste water must be achieved prior to its being discharged to the 52-acre wetland system. The wetlands of the mitigation area will be "waters of the State" and therefore subject to all of the water quality protection measures contained in the State Porter-Cologne Act and the Federal Clean Water Act. Strategic location of treatment systems immediately upstream of the mitigation area may be feasible provided that these facilities are capable of providing treatment necessary to protect the beneficial uses of the waters of the State (i.e., the fish and wildlife resources of the mitigation area).

PR's  
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is  
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habitat

Lastly, and again referring to the relationship of a mitigation bank to the 52-acre wetland restoration project, we find that the 52-acre area presently contains approximately 15 acres of wetland as identified by the Corps. Therefore, approximately 37 acres of wetland would be created in this area. Inasmuch as we have concluded that there would be 40 acres of wetland in Area A given a resumption of normal rainfall, we recommend to the Corps (and will recommend to the Commission) that proposed development of Area A be required to mitigate for the loss of 40 acres of wetland. For these reasons, we find that the proposed 52-acre wetland restoration area, which produces approximately 37 acres of

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The Honorable Douglas P. Wheeler -4-

February 5, 1991

newly created wetland is not large enough to offset the loss of approximately 51.5 acres of wetland which would result from the overall proposed Playa Vista project. Further, the magnitude of the mitigatory shortfall is directly dependent upon the future regulatory options of the Commission (as well as the present options of the Corps). In this regard, if the Commission consented to acre-for-acre compensation for the loss of 51.5 acres of wetland, the mitigatory shortfall would be approximately 14.5 acres; if the Commission required acre-for-acre compensation for the loss of the 40 acres in Area A and, for example, 3.1 compensation for the net loss of 11.5 acres south of the Ballona Creek channel, the mitigatory shortfall would be 37.5 acres; etc.

In order to resolve our concerns, we recommend one of two options to the Corps:

1. The least problematic of our two recommendations would be for the Corps to simply deny the issuance of the requested permit on the grounds that it would constitute a piecemealing of the overall Ballona Wetland/Playa Vista project; that the requested permit may conflict with potential action of the Commission regarding the overall project as well as the water quality considerations of State and Federal law; and that, for these reasons, a Corps finding with regard to compatibility between permit issuance and the California Coastal Act (as well as the Federal Coastal Zone Management Act and other State and Federal laws) is not presently supportable. Given that the Corps decides upon this course of action, we would recommend that the permit be denied at this time and without prejudice, and that any consideration of the requested permit be held in abeyance until after action is taken by the Commission on the revised Playa Vista/Marina Del Rey/Ballona Wetland Land Use Plan and resolution of the water quality considerations.
2. As a clear second choice to our initial recommendation, and if in spite of our concerns the Corps decides that it must approve a permit for the fill and dredging of 15.5 acres of wetland, and a permanent loss of 11.5 acres of wetland, then we would recommend as follows:
  - a. The Public Notice should be revised and recirculated for public review. Specifically, the recirculated Public Notice should involve the dredging and filling of 15.5 acres of wetland (11.5 acres permanently) for 7.8 acres of residential and commercial development and 7.7 acres of berm construction (3.7 acres of which will be restored as wetland).
  - b. The freshwater wetland system (which is a flood control/water cleansing/mitigation project) should be identified as the mitigatory element for the net loss of 11.5 acres of wetland.
  - c. All allusion to the existence of a mitigation bank, Phase II and Phase III development, wetland acreage in Area A, the adequacy of the 52-acre freshwater wetland

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cont.

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The Honorable Douglas P. Wheeler -5-

February 5, 1991

system in terms of offsetting impacts associated with implementation of Phase II and Phase III developments; and the adequacy of the 52-acre system in terms of entirely offsetting all requirements associated with the settlement agreement should be stricken from the Corps' Public Notice.

- d. The permit issued should specifically authorize and discuss only the dredging and filling of 15.5 acres of wetland and the construction of the 52-acre freshwater wetland system.
- e. The permit issued should specifically delete the function "to cleanse urban run-off" as a purpose of the freshwater wetland system. Instead the permit should contain a condition that all urban run-off allowed to enter the system shall be treated priorily as necessary to provide water quality suitable for the protection of the fish and wildlife resources in the system.

In summary, and for those reasons specified previously, we recommend against the issuance of the requested permit, and we recommend that the Corps resolve those issues which we have raised by adopting either of the two previously recommended courses of action.

Thank you for the opportunity to review this Corps Public Notice. Should you have questions regarding the position of the Department, please contact Mr. Donald L. Lolbock, Chief, Environmental Services Division, Department of Fish and Game, 1416 Ninth Street, Sacramento, CA 95814, telephone (916) 445-3531.

COPY Original Signed By  
P. L. Jensen  
FOR

Pete Bontadelli  
Director

cc: ✓ Mr. Peter Douglas, Coastal Commission - San Francisco  
Mr. Chuck Damm, Coastal Commission - Long Beach  
Mr. Jack Fancher, U.S. Fish and Wildlife Service - Laguna Niguel  
Mr. Bob Hoffman, National Marine Fisheries Service - Terminal Island  
Mr. Tom Yokum, Environmental Protection Agency - San Francisco

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cont.

003021



# COMPARE THE PLANS FOR OUR BALLONA PARK

## COMPARING THE STATE CDFW BALLONA ALTERNATIVE 1

“Bringing Back Ballona” to What It Never Was, for Almost \$200 Million

for Project documents, EIR and Appendices

<http://tinyurl.com/ballona-eir>

## AND THE BEEP ALTERNATIVE #10/#11

“No Destruction, All Restoration. Fix What Needs Fixing, Keep What Is Working”

<http://saveallofballona.org>

These alternatives are discussed on Appendix A-2 pages 2065-2137 and DEIR pages 2-331 to 339

**PLEASE SUPPORT OUR PLAN. SEND AN EMAIL BY 5:00PM FEBRUARY 5TH TO [BWERcomments@wildlife.ca.gov](mailto:BWERcomments@wildlife.ca.gov)**

QUESTIONS? EMAIL [rexfrankel@yahoo.com](mailto:rexfrankel@yahoo.com), President and Legal Director of Ballona Ecosystem Education Project (BEEP) Founded 1985

SUMMARY: 9 years of heavy earthmoving and wildlife destruction to convert a degraded historically freshwater creek delta system, which originally featured salt marsh, freshwater and drier upland habitats, into a mostly deep ocean saltwater zone at a cost of at least \$182 million in taxpayer funds. Not historically accurate, thus NOT A “RESTORATION” PROJECT, therefore it violates the voter-drafted California Coastal Act which only allows “restoration” of a wetland to what it was before urban settlement damaged it. Requires excavation of the site down to sea level or below to flood it with ocean water based on the MISTAKEN ASSUMPTION THAT NO CLEAN FRESHWATER SOURCE IS AVAILABLE to do a historically accurate restoration.

SUMMARY: 1-year-to-success plan: LEVEES WILL REMAIN WHERE THEY ARE, protecting the wetlands from Ballona Creek pollution. Project will feature 3 PARALLEL CREEK CHANNELS: EXISTING/MIDDLE FOR FLOODS, TSUNAMI AND POLLUTION; 2 SMALLER OUTSIDE CHANNELS FOR CLEAN HABITAT. The Wetlands will be re-watered with clean water from the Ballona Creek dry season treatment plants (subject of an EIR last fall); water will flow by gravity from 3 upstream plants via a pipe on each creek levee.



Water pumped from the upper creek into filtration and disinfection facilities will then flow downhill to the lower creek wetlands, similar to Playa Vista's Freshwater Marsh System which relies on pumped and treated groundwater for all flows except on rainy days. CAN PUMPS FAIL? Playa Vista's pumps have not failed, however,

FLOODING AND POLLUTION: Already paid-

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cont.

for protective creek levees will be demolished. They are unnatural, but they prevent even-less-natural highly polluted urban street drainage from contaminating the wetlands. During rainstorms, the Wetlands will be flooded with polluted water from Ballona Creek turning the area into a bacteria and metals "sink". Although the creek is promised to be fully clean by April 2021, there is no plan to do this, except during the dry season when 1 percent of pollution washes down the creek.

TO CLEAN UP THE OTHER 99% OF CREEK POLLUTION: Cost of rainy-day creek cleanup is estimated by LA City Sanitation Dept. to be \$3 billion, but there is no EIR examining the impacts of their plans to dig up every park and street in the Ballona creek watershed in order to percolate and divert most water (and thus the pollution) away from the creek drainage system, which will largely dry up freshwater sources for wildlife using the creek which could potentially flow to the wetlands. (THUS THE "NEED" FOR A SALTWATER ONLY PLAN)

they were turned off for a while in 2016 by Playa Vista and CDFW creating a smelly mess due to not enough capacity in the re-creation of Centinela creek. (SMALLER CREEK EAST OF LINCOLN BLVD. LEFT MORE LAND FOR DEVELOPMENT, A SELF-CREATED PROBLEM)

To see a similar project in which wetlands were kept separate from the urbanized flood control channel, visit Lower Arroyo Park in Pasadena.

A "parallel" creek system would allow flood waters and tsunamis at Ballona to be contained within the central and already paid-for protective levee system without subjecting the currently protected wetlands to pollution and flood damage and subjecting nearby low-lying neighborhoods to 9 years of construction and dust and permanent view blockage from 20 to 55 foot tall mounds of dirt along Culver and Jefferson Blvds.

MINIMAL EARTHMOVING ONLY IN 95% OF THE SITE to distribute clean piped-in freshwater (currently slated to be dumped straight into the ocean) to restore the land to approximately what it was before European settlement of this area 200 years ago. Trash and invasive non-native plants will be slowly removed mostly by hand. Re-planting of willow tree groves will begin immediately near freshwater "inlets". Willows grow 8 to 10 feet a year. Land does not need to be excavated as freshwater source is at 65 feet above sea level, thus areas at Ballona ranging from 3 to 20 feet high can receive restorative freshwater by gravity flow WITHOUT NEED TO EXCAVATE DOWN TO SEA-LEVEL. COST IS \$10 MILLION OR LESS

RESTORED SALTWATER HABITAT: 20 PERCENT OF THE LAND WAS HISTORICALLY TIDALLY-INFLUENCED SALTMARSH AND LAGOONS (120 ACRES OUT OF THE 577 ACRE PROJECT, Source: Volume 1 DEIR page 2-3: footnote 17):

--SOUTH WETLANDS/PARCEL B: Additional pipes with flapgates to prevent overflows will be

O2-174  
cont.

	<p>bored through the levees to provide muted tidal oceanwater flow to the low lying wetlands on the south side of the creek which are north of Culver Blvd;</p> <p>--MIDDLE WETLANDS: the 84 acre main channel of Ballona Creek currently receives full tidal flow and its inner banks will be re-vegetated;</p> <p>--NORTH WETLANDS/PARCEL A: finally, up to 1/4th of the north wetlands located on dug-out Marina Del Rey mud could receive full tidal flow through pipes and flapgates. This would require excavation of approximately 12 feet of mud from 30 acres of land (5% OF THE TOTAL PROJECT SITE). This could be used to eventually raise the creek levee heights by 5 feet to accommodate sea level increases, if needed.</p>	
↑	<p>TONGVA SITES: 10 Native American cultural sites were ignored in the EIR; they will be either excavated or buried</p>	<p>Cultural sites will be left alone; no change</p>
	<p>SEA LEVEL RISE IMPACTS: Wetlands will be exposed to damage from sea level rise; 5 feet expected by 2100. Seasonal salt and freshwater wetlands and restored upland habitats will be drowned by the ocean, and those remaining after construction of the plan will be eventually submerged by sea level rise; all of this reducing nesting and hiding places and drinking water sources for mammals, butterflies, birds, reptiles and amphibians. 3 native habitats will be reduced to largely 1.</p>	<p>Wetlands will remain protected by Ballona Creek levees which are considered adequate for expected 5 foot rise by 2100. If things change, levees can be raised. Sea level rise will have no negative effect on Ballona preserve</p>
	<p>VIEWS: Locations of large areas of wetlands and uplands will be switched. 20 feet of soil from north side of Ballona Creek will be dug up, transported to south of Ballona Creek marsh areas and east of Lincoln Blvd wildflower areas to create 25 to 55 feet above sea level hills (which were never at Ballona). New Parcel B levee north of Culver Blvd from Vista Del Mar neighborhood to Lincoln Blvd will block views of the wetlands for everyone at street level.</p>	<p>Parcel C wildflower areas and uplands will NOT be buried with 25 feet of dirt to elevation of 55 feet, which would block southerly views from Villa Marina neighborhood. Parcel B wetlands will not be buried by 20 to 25 foot mounds. Views of wetlands from Playa Vista community will not be blocked.</p>

O2-173  
cont.

O2-174  
cont.

O2-173  
cont.

RECREATIONAL TRAILS: PLAN FIXES A SELF-CREATED PROBLEM: DEIR Vol. 1 page 3.11-12 states: "Alternative 1 would provide a network of bike and pedestrian paths and public access to portions of the Ballona Reserve *that are inaccessible under existing conditions*. This would be a long-term beneficial effect." The EIR does not mention that all the trails were closed by the State Fish and Game Commission in 2004, despite over 50 years of use by the community; many of those trails are slated to be flooded by the State's preferred plan.

The surrounding community will decide which of the miles of existing but "closed" trails will remain.

SEE PAGE 11 OF

<http://www.idarchitect.com/wp-content/uploads/Ballona.pdf> FOR "EXISTING" TRAILS AND PUBLIC ACCESS. DOCUMENT WAS CO-PUBLISHED BY CDFW in 2005

**OUR THREATENED TRAILS**






O2-174  
cont.

REVISED 01/26/18








 Ballona Wetlands A... [SHARE](#)   
 healthebay.org

wetlands, it's critical that the state act to protect Ballona. Wetlands are unique habitat that connect land and sea.

**Right now, only 3% of Ballona's roughly 600 acres is functioning habitat. That simply is not enough.**

To be clear, there are a few vocal opponents who contend that no work should be done to restore the wetlands. But our coalition believes strongly that we must act now, guided by the best science, to prevent further irreversible deterioration.

Our Wetlands Principles Coalition  has been busy analyzing the highly  technical EIR document. We have been examining [the various](#)

O2-175

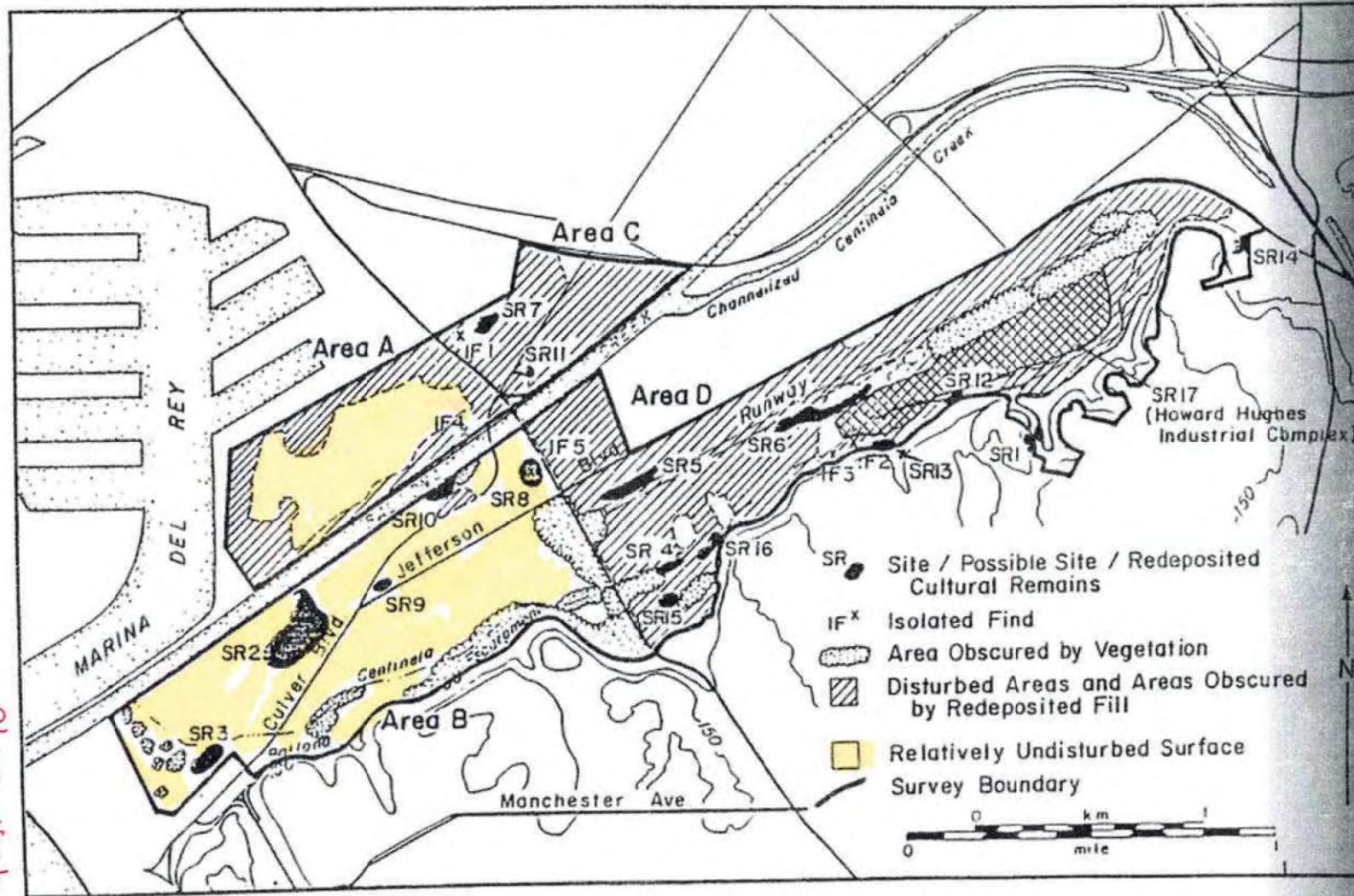


Figure 50. Map Showing the Locations of Previously Unrecorded Cultural Loci and Isolated Finds Identified during the August-September 1990 Cultural Resources Survey in Relation to Existing Surface Conditions.

O2-176



# Ballona Wetlands Ecological Reserve



O2-177

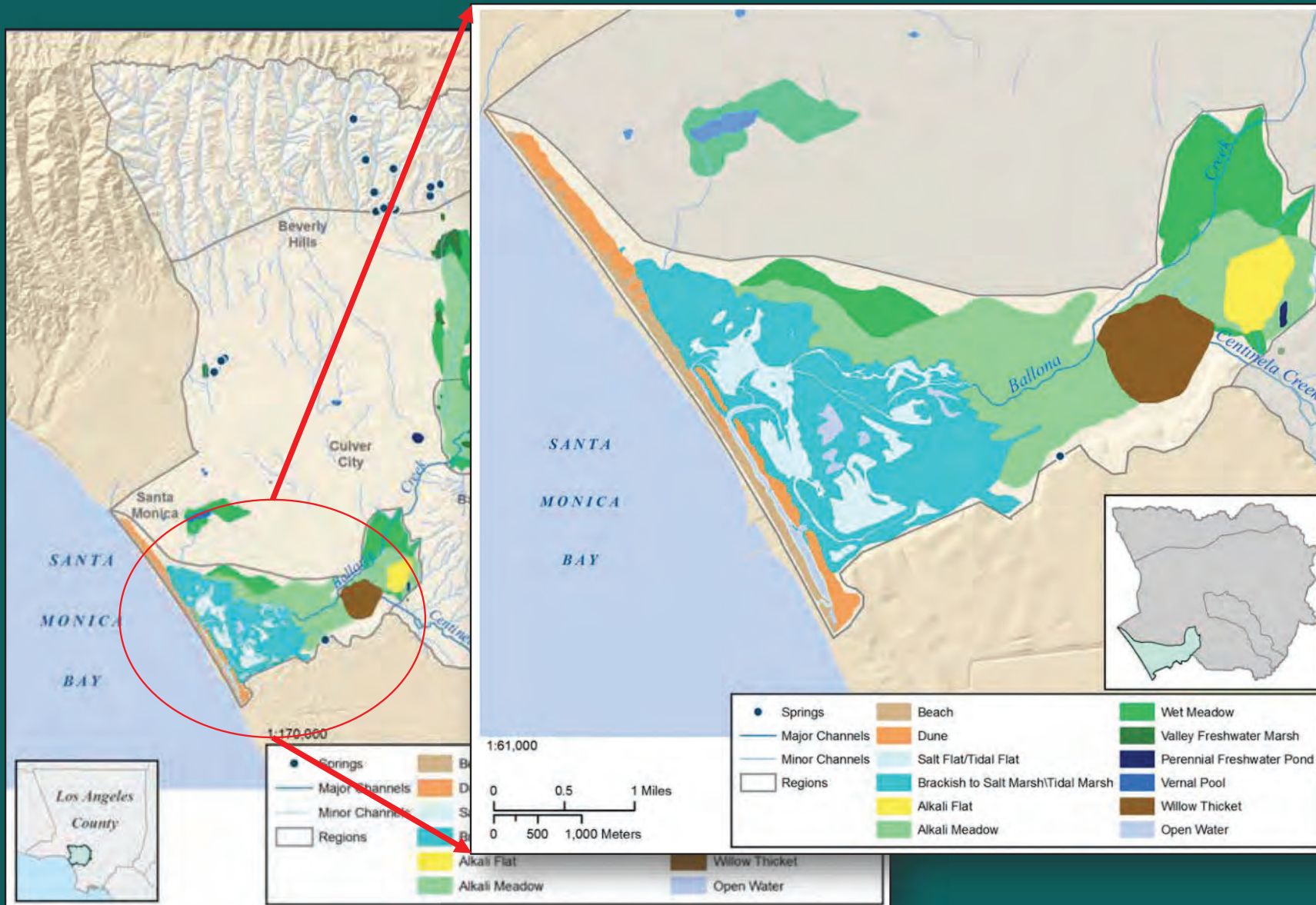


# Presentation Outline

- Historical Ecology
- Current Stressors
- Baseline Monitoring Results
- Regional Data Results
- Restoration Process
- Restoration Alternatives 1-4



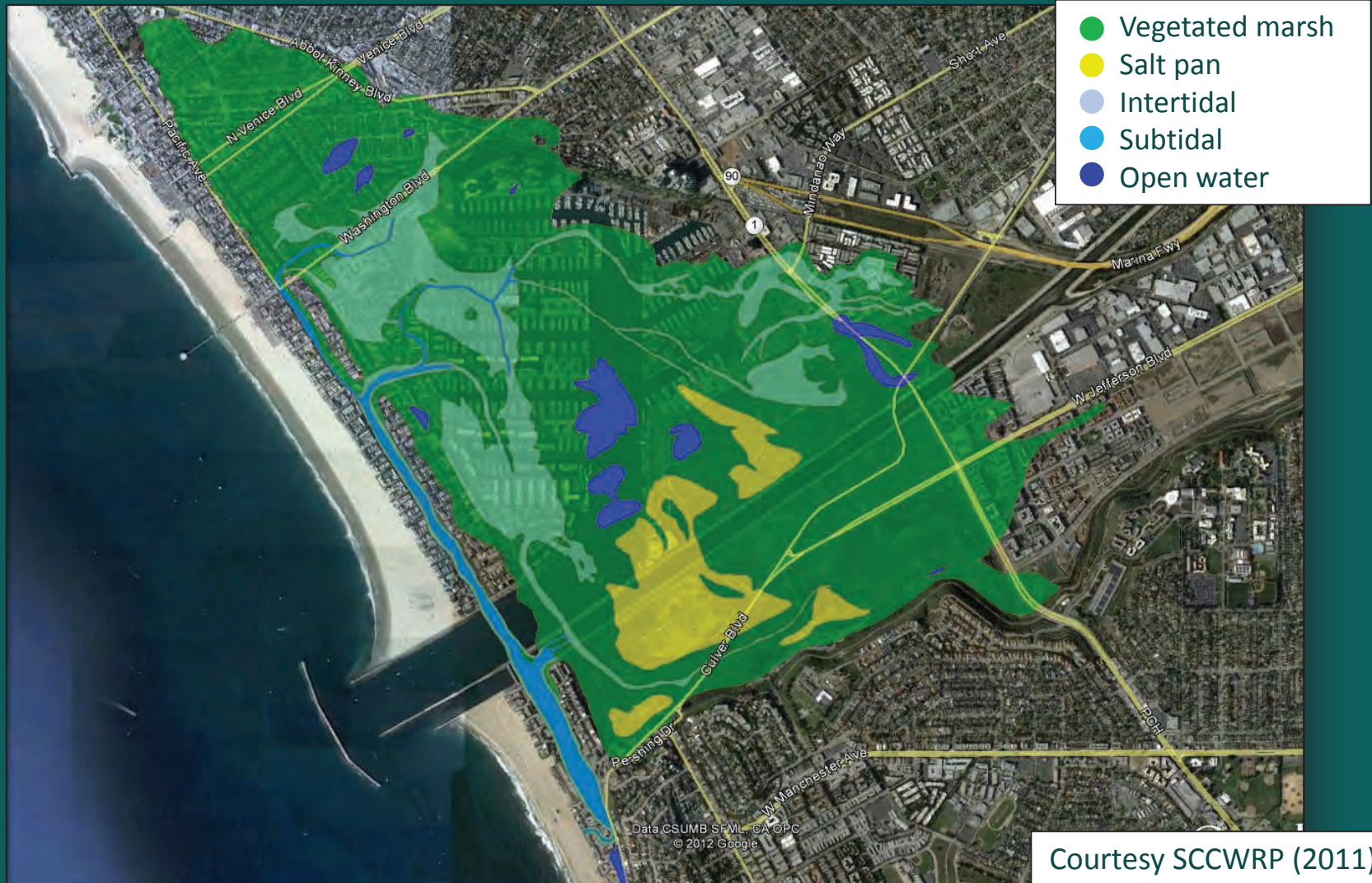
O2-177  
cont.



O2-177  
cont.



# Historic Ballona – 1876 T-Sheet



O2-177  
cont.



# Oil Fields



Oil derricks in  
Venice, 1930 (USC)



Oil derricks in Playa  
Del Rey, 1925 (USC)



Digitally reproduced by the USC Digital Archive (c)2004, California Historical Society; TICOR/Pierce, CHS-12805

O2-177  
cont.

# Agriculture and the Marina completion

Marina del Rey, 1968 (LAPL)



Celery patch,  
1927 (USC)

O2-177  
cont.



# Ballona Wetlands Ecological Reserve

[www.ballonarestoration.org](http://www.ballonarestoration.org)



- 577 acres
- Largest wetland restoration project in Los Angeles County
- Owned by the state of California; managed by CDFW (and SLC) as an ecological reserve
- SCC funded monitoring
- CDFW + Corps = lead agencies



O2-177  
cont.



# BWER Stressors

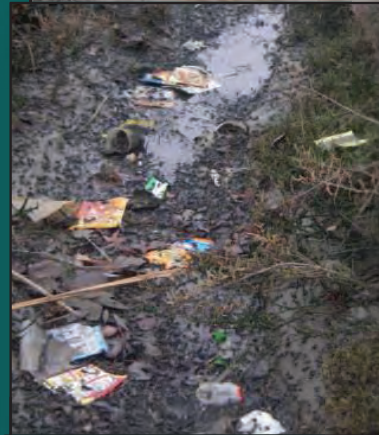
- **Modified hydrology**

- Dredging & fill dump
- Levees, culverts , & channelization
- Paving & roads
- Draining



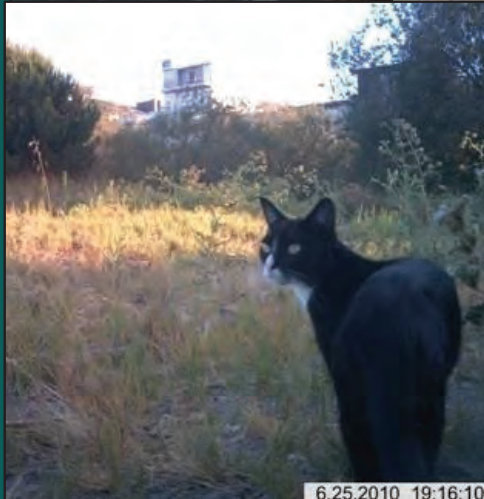
- **Water quality**

- Non-point source discharges
- Trash
- Heavy metal impairments
- Bacteria and pathogen impairments
- Other impairments



- **Habitat destruction**

- Fragmentation
- Invasive & introduced species
- Introduced predators
- Noise and light pollution

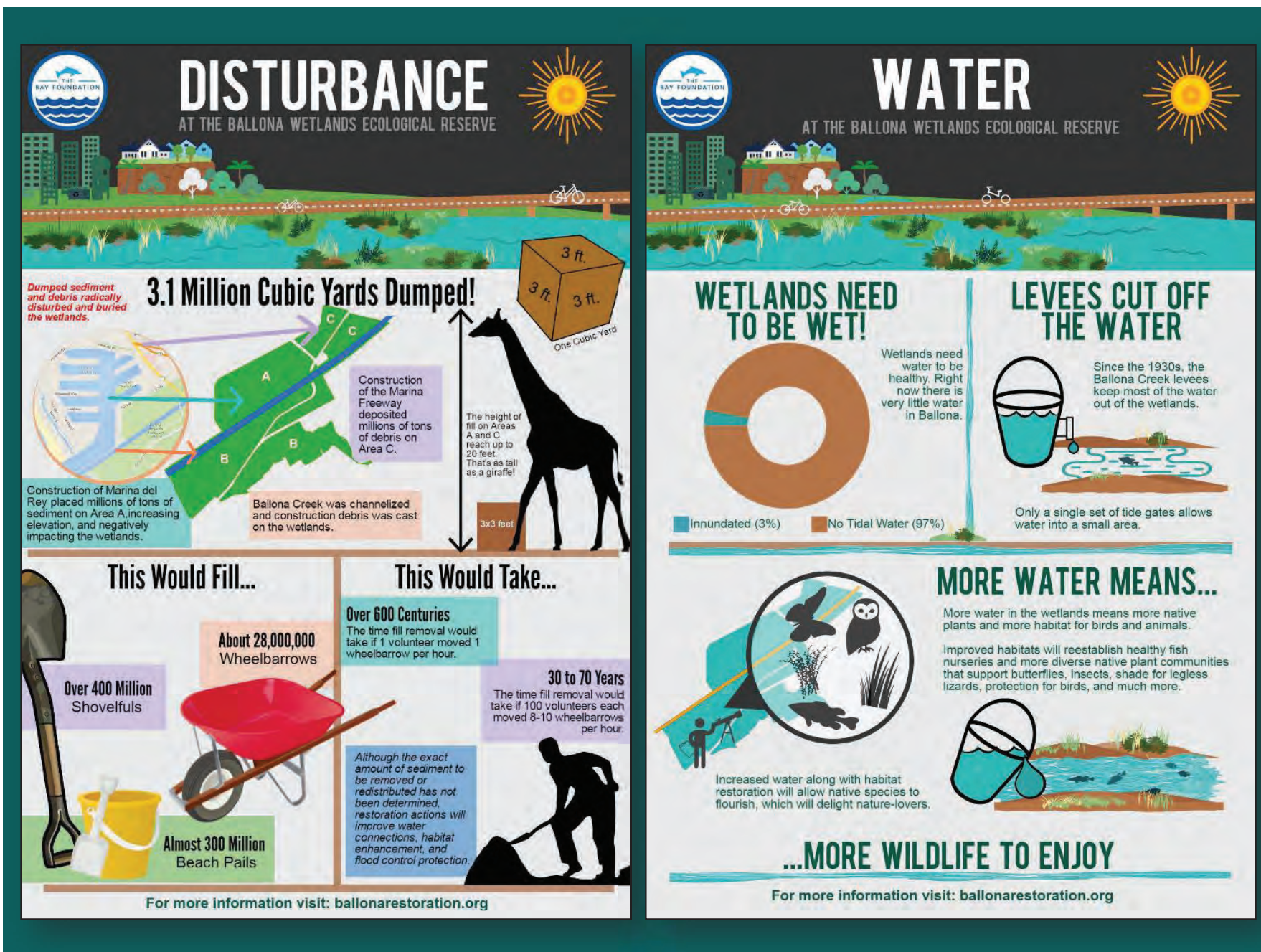


- **Additional stressors**

- Vector control
- Physical modifications
- Misuse of the site
- Sea level rise & climate change

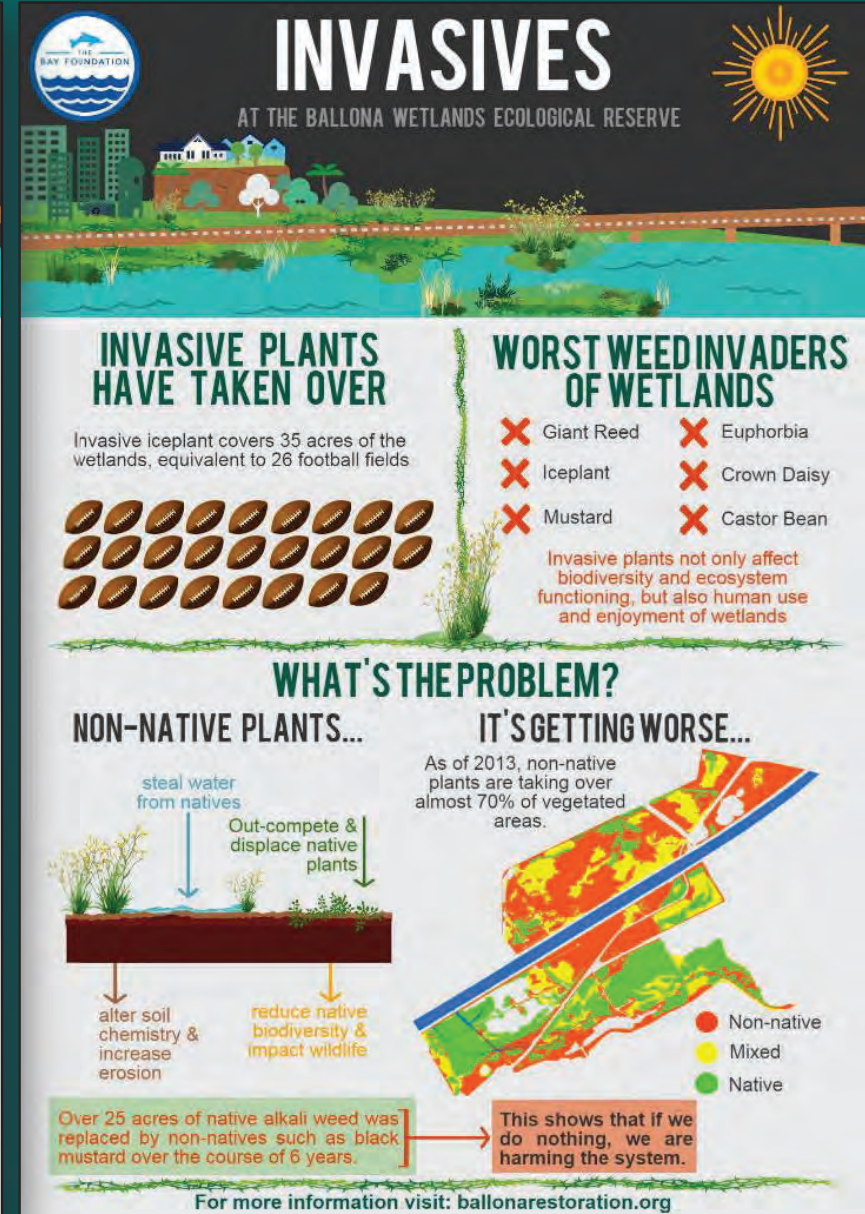
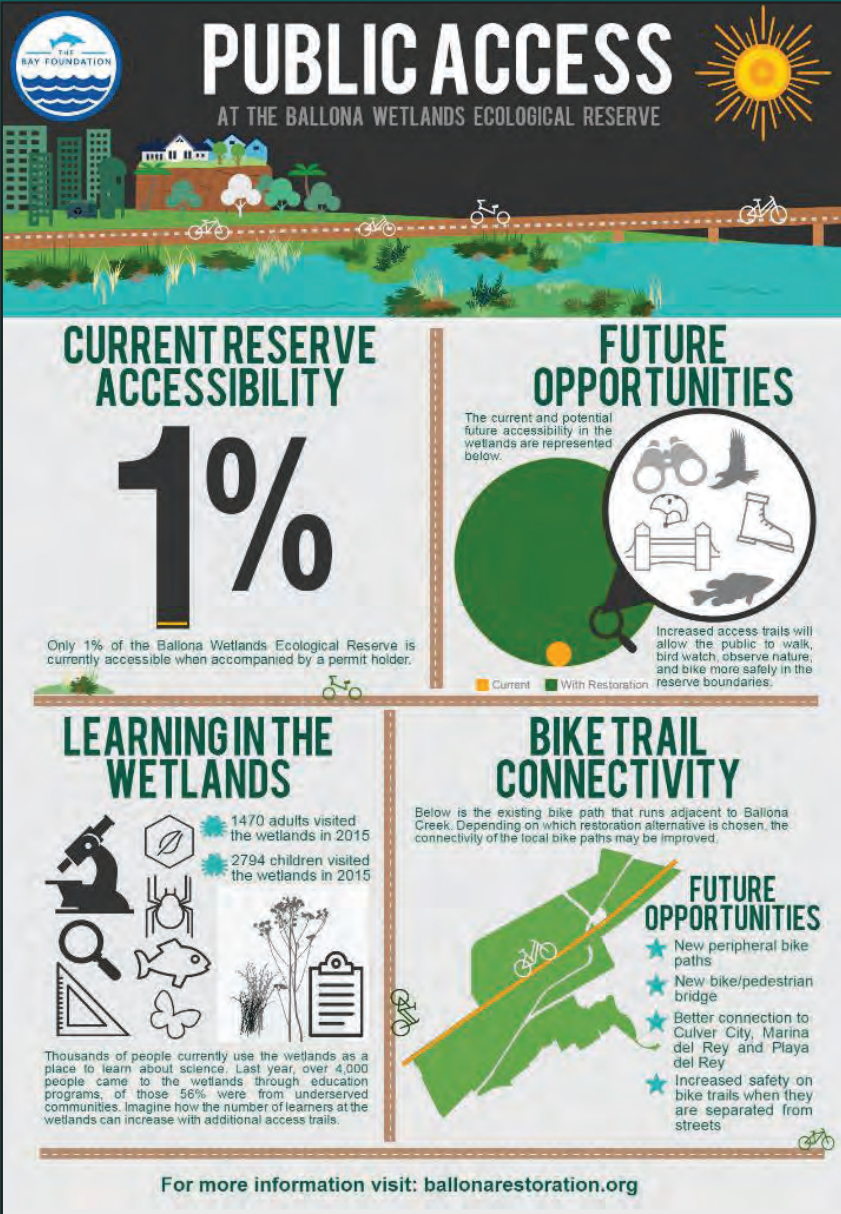
O2-177  
cont.





O2-177  
cont.

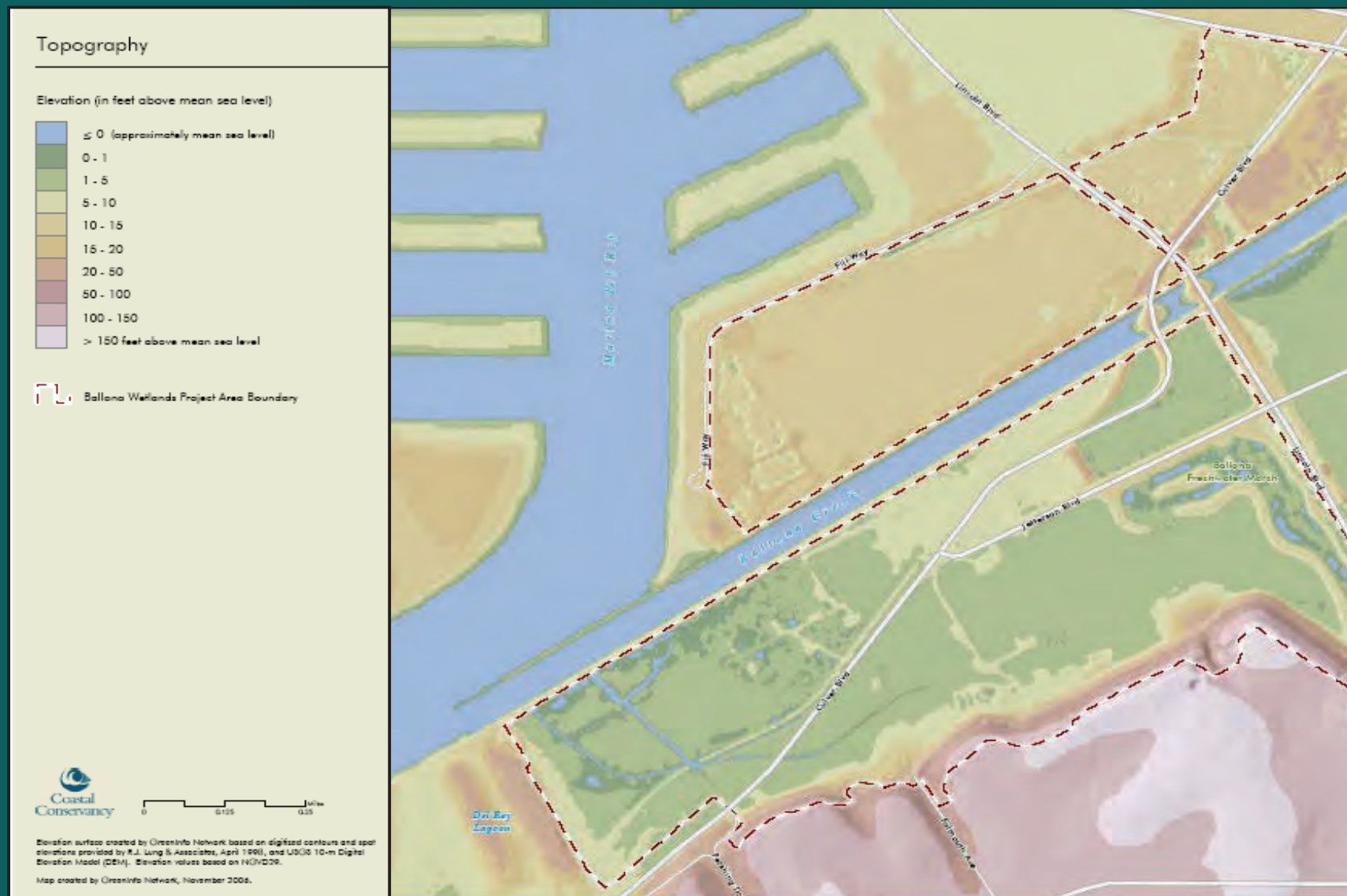




O2-177  
cont.



# Ballona Reserve - Topography



O2-177  
cont.

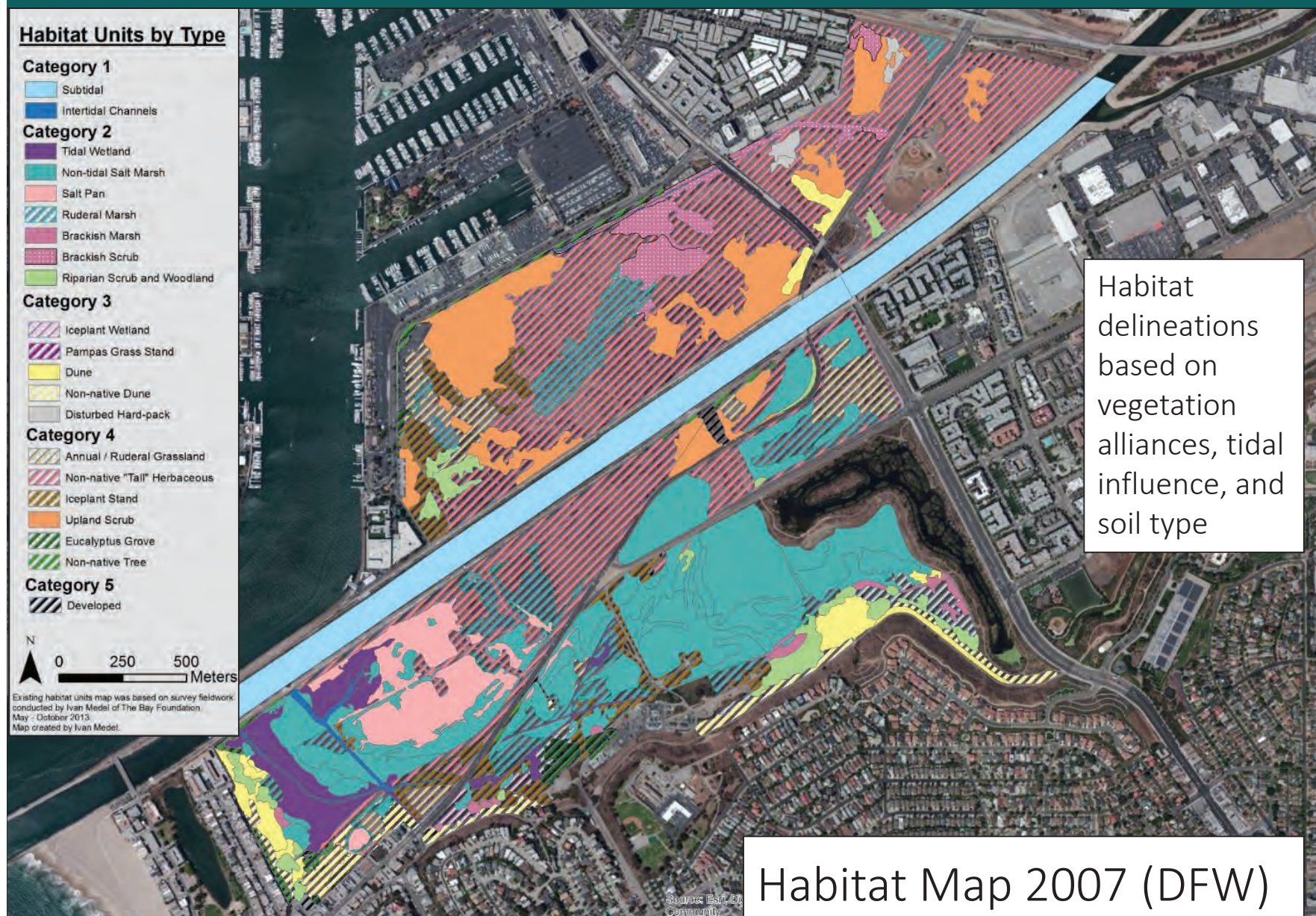
# Monitoring Reports: Chapter Info & Summary of Protocols

- 5 years of monitoring
- Part of EPA regional monitoring program

- **Ch. 1 Water Quality**
  - (bacteria, nutrients, trace metals, general/continuous monitoring)
- **Ch. 2 Marine Sediment**
  - (trace metals, pesticides, PCBs, etc)
- **Ch. 3 Terrestrial Soils**
  - (trace metals, organic content)
- **Ch. 4 Vegetation**
  - (stratified random transect sampling – all habitats)
- **Ch. 5 Fish**
  - (beach seines w/blocking nets, shrimp trawl, minnow traps)
- **Ch. 6 Herpetofauna**
  - (pitfall traps, coverboard arrays)
- **Ch. 7 Mammals**
  - (Sherman live traps, motion cameras)
- **Ch. 8 Birds**
  - (site-wide surveys, breeding, waterbird)
- **Ch. 9 Benthic Invertebrates**
  - (shallow & deep cores)
- **Ch. 10 Terrestrial Invertebrates**
  - (productivity metric & pitfall traps)
- **Ch. 11 Physical Characteristics**
  - (t-sect elevations, cross-sections, velocity, inundation mapping)

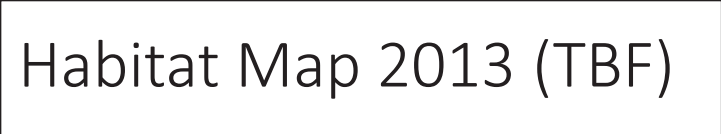
O2-177  
cont.





O2-177  
cont.







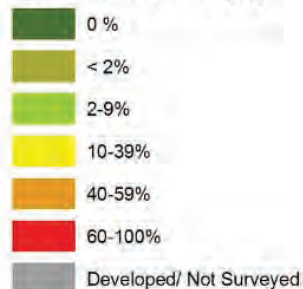
2007



### Legend

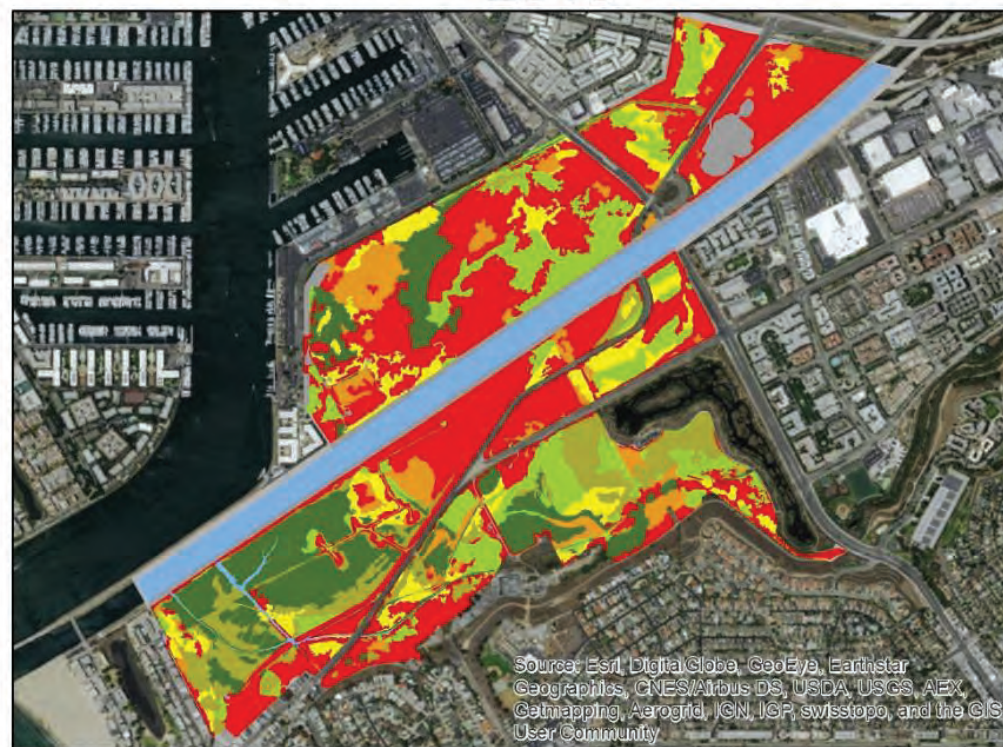
Water/ Tidal Channel

### Non-native Cover (%)



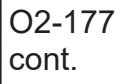
Invasion of  
non-native  
vegetation

2013



O2-177  
cont.







## California Rapid Assessment Method (CRAM) Survey Results

### Ballona Wetlands

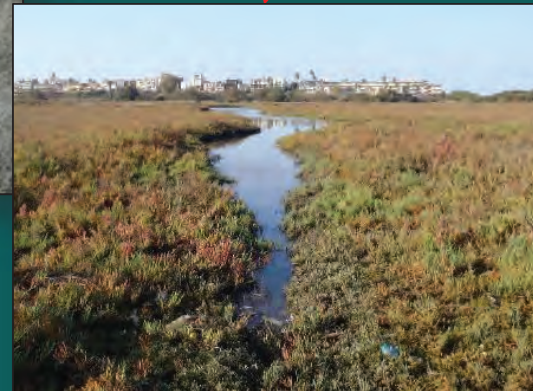
Area A – highly impacted

44



Area B – tide channels; muted hydrology, fewer impacts

64



Area B –  
seasonal  
wetlands;  
hydrological  
impacts

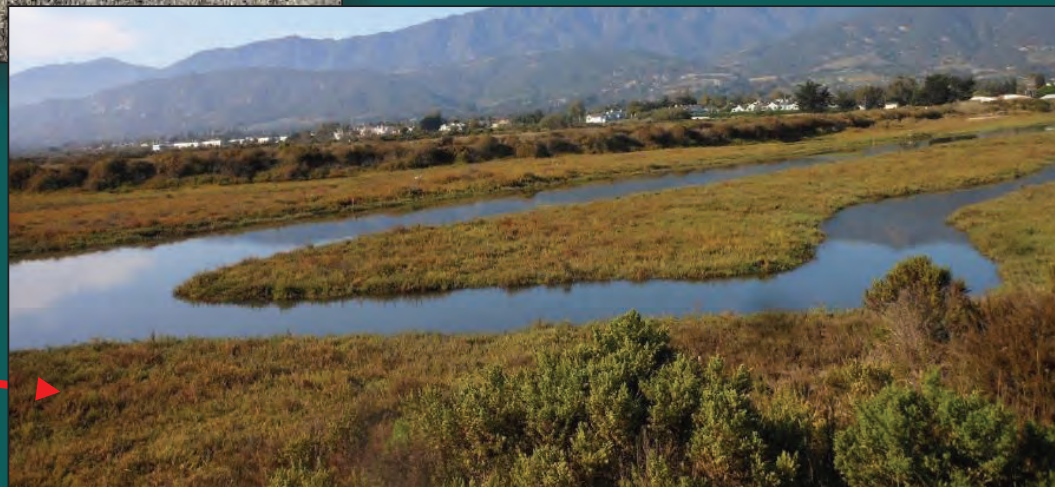
55



### Carpinteria Salt Marsh

88

few impacts



O2-177  
cont.



# What the data from Ballona tell us:

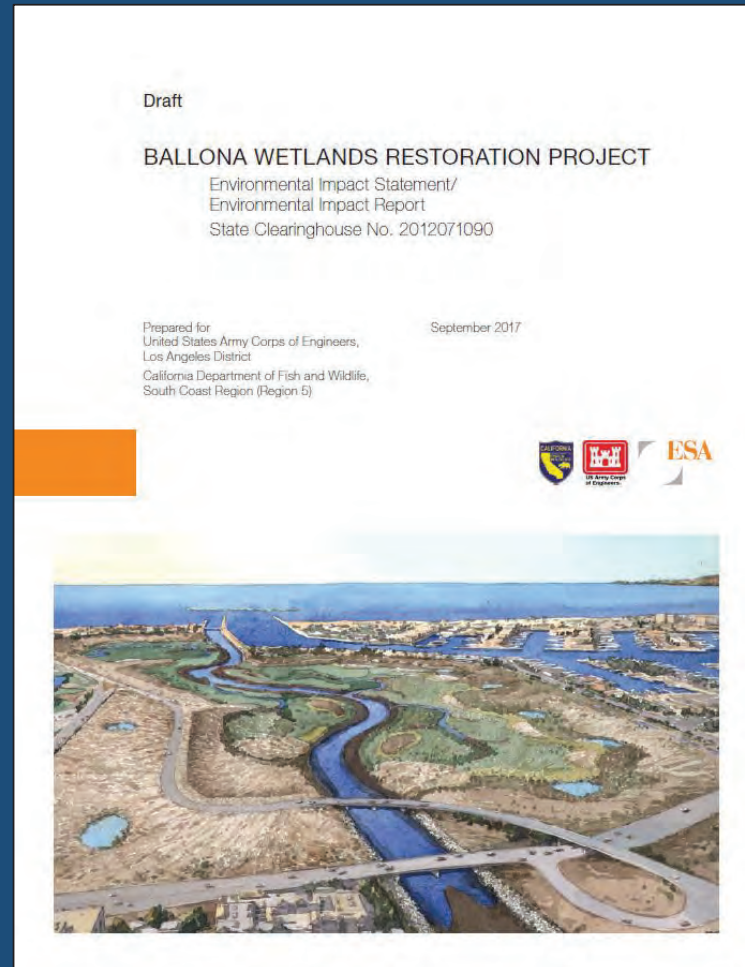
- Degraded compared to reference /more “natural” sites
  - Lower condition scores (e.g. CRAM) and species richness, though still some native vegetation
- High level of impacts over long period of time
- Several areas of the site still have predominantly native species, some areas very unhealthy
- Some limited functions persist (e.g. water filtration, carbon sequestration) and some missing completely
- High degree of human/anthropogenic impacts

O2-177  
cont.



# Ballona Wetlands Restoration Project:

Draft  
Environmental  
Impact Statement  
and Report (DEIS/R)



O2-177  
cont.



# NEPA Statement of Purpose and Need

The purposes, pursuant to NEPA, of the Project are to:

1. Restore Ecological Functions and services within the Ballona Reserve, in part by increasing tidal influence to achieve predominantly estuarine wetland conditions.
2. Ensure any alteration/modification to the Los Angeles County Drainage Area (LACDA) project components within the Ballona Reserve maintain the authorized LACDA project levels of flood risk management, which in this section of Ballona Creek, includes ensuring there is no reduction to the conveyance capacity of up to 68,000 cubic feet per second (cfs)<sup>9</sup> and that LACDA project features reduce flood risk to the surrounding communities and infrastructure for up to the 100 year flood event.

1.1.1 Statement of Purpose and Need under NEPA pgs. 1-1 and 1-2

O2-177  
cont.

# NEPA Statement of Purpose and Need

“The need for the Project under NEPA is to restore coastal aquatic resources to increase available breeding and foraging habitat for wildlife while maintaining flood protection for surrounding communities; and to provide public access for compatible recreational and educational opportunities that are not currently widely available within the Ballona Reserve. A substantial portion of California’s historic coastal aquatic resources have been lost. The Ballona Reserve aquatic ecosystem is one of the last remaining opportunities for major coastal habitat restoration in Los Angeles County. It is estimated that historically the Ballona Creek watershed supported a great diversity of aquatic resources.”

O2-177  
cont.

1.1.1 Statement of Purpose and Need under NEPA pg. 1-2

## Restoration Alternatives

Alternative 1: NATURALIZED CREEK

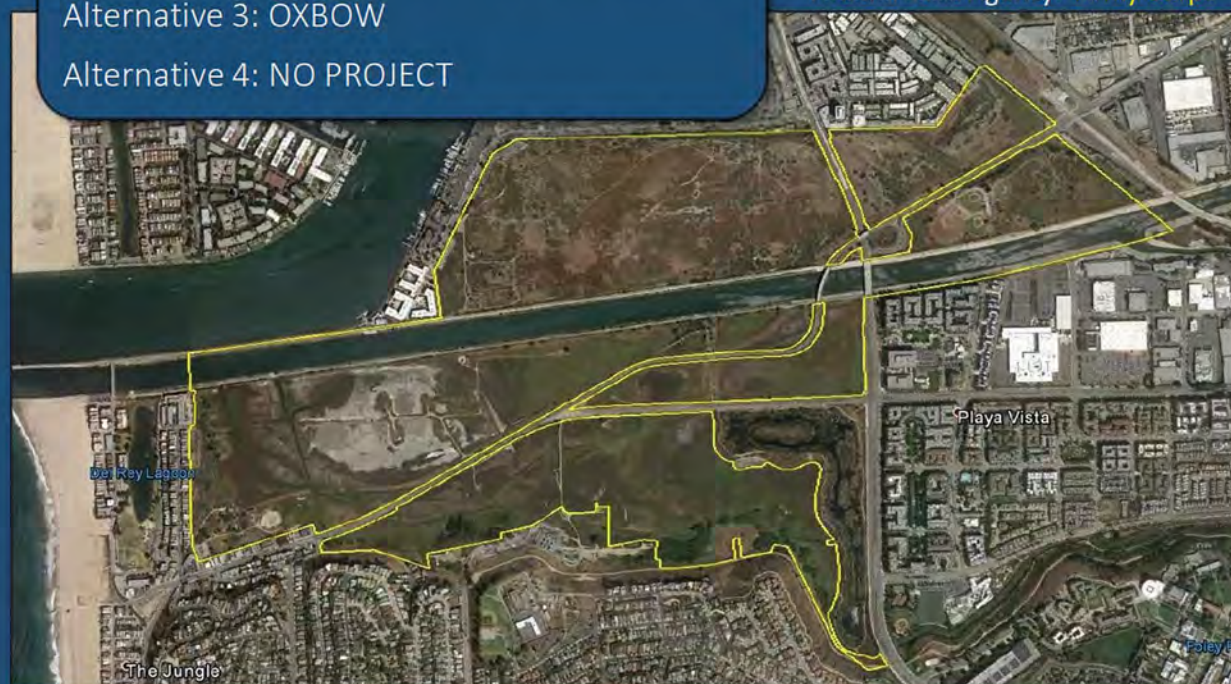
Alternative 2: PARTIAL NATURALIZED CREEK

Alternative 3: OXBOW

Alternative 4: NO PROJECT

State Lead Agency: CDFW

Federal Lead Agency: Army Corps



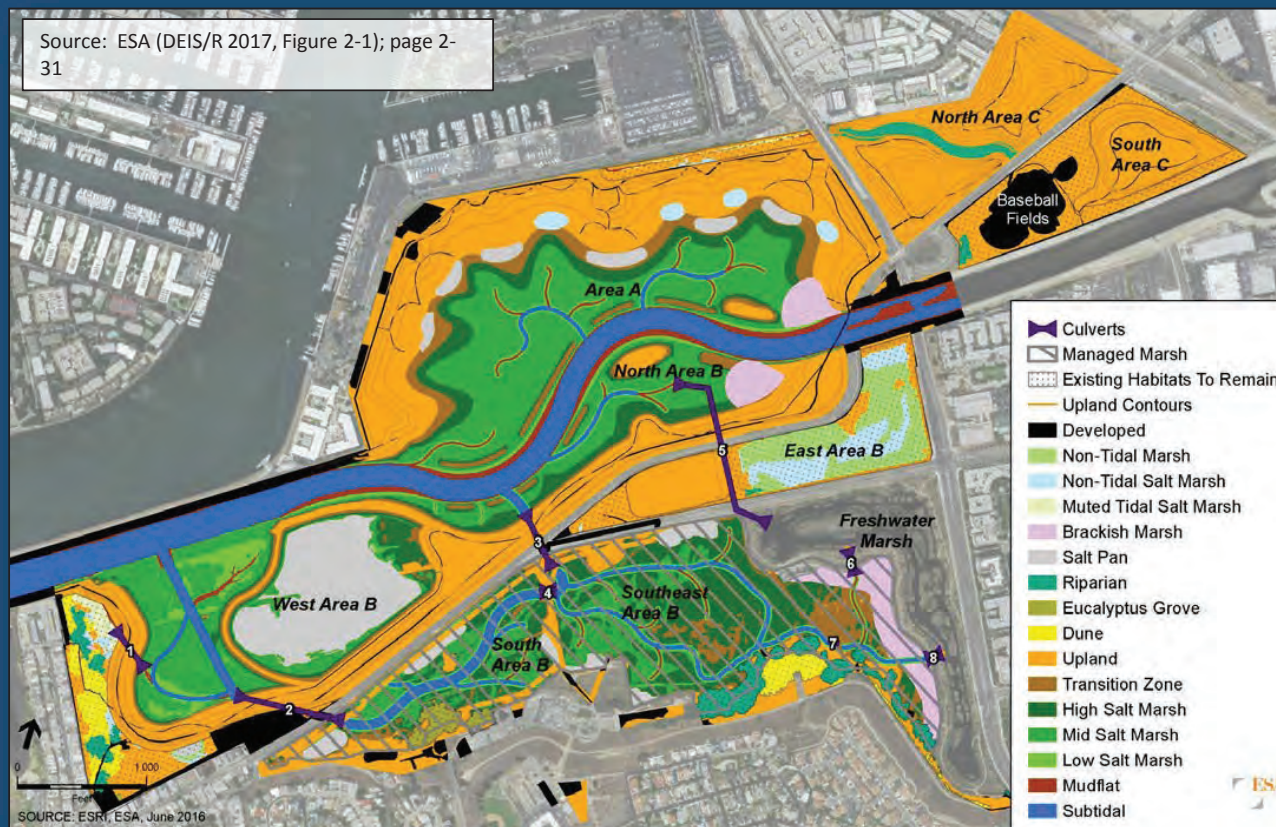
O2-177  
cont.





## Ballona Wetlands Restoration Project (Alternative 1 – DRAFT graphic illustration)

Source: ESA (DEIS/R 2017, Figure 2-1); page 2-31

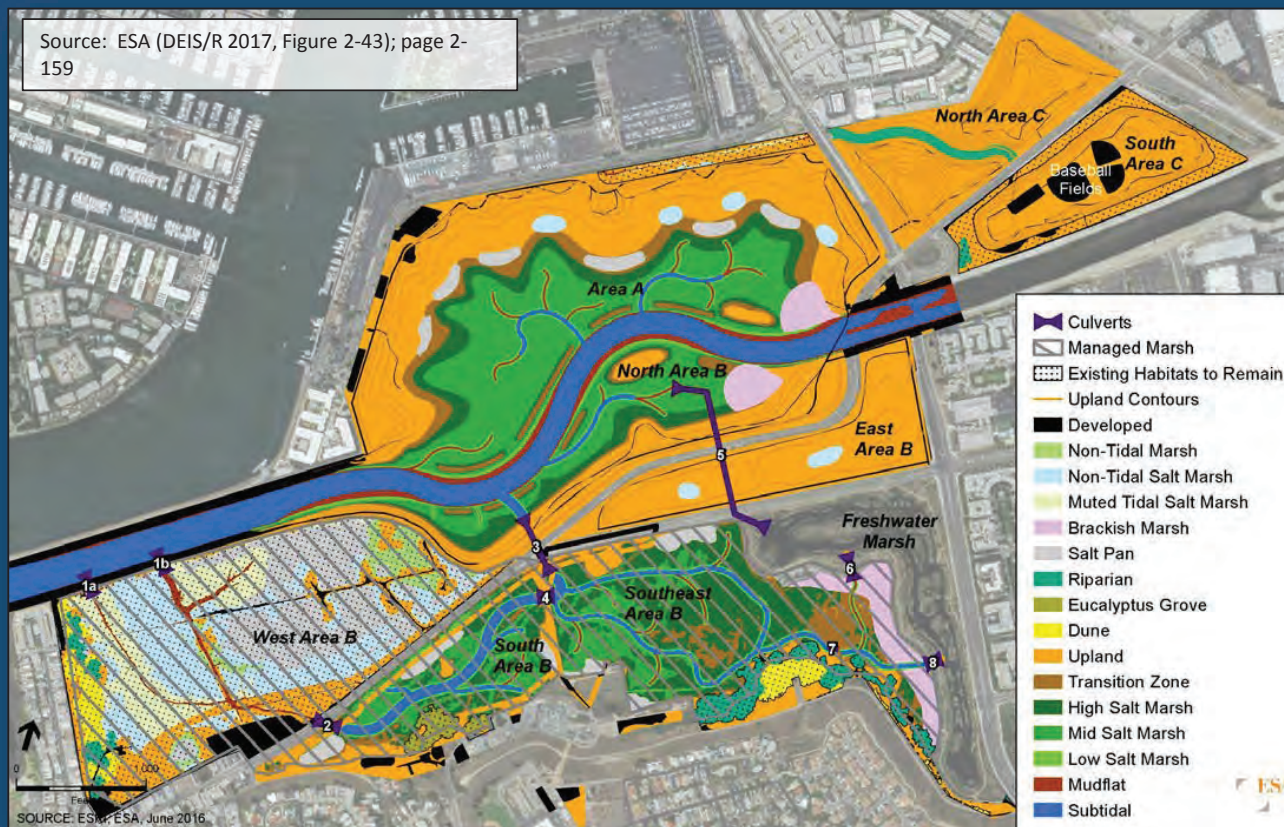


O2-177  
cont.



## Ballona Wetlands Restoration Project (Alternative 2 – DRAFT graphic illustration)

Source: ESA (DEIS/R 2017, Figure 2-43); page 2-159

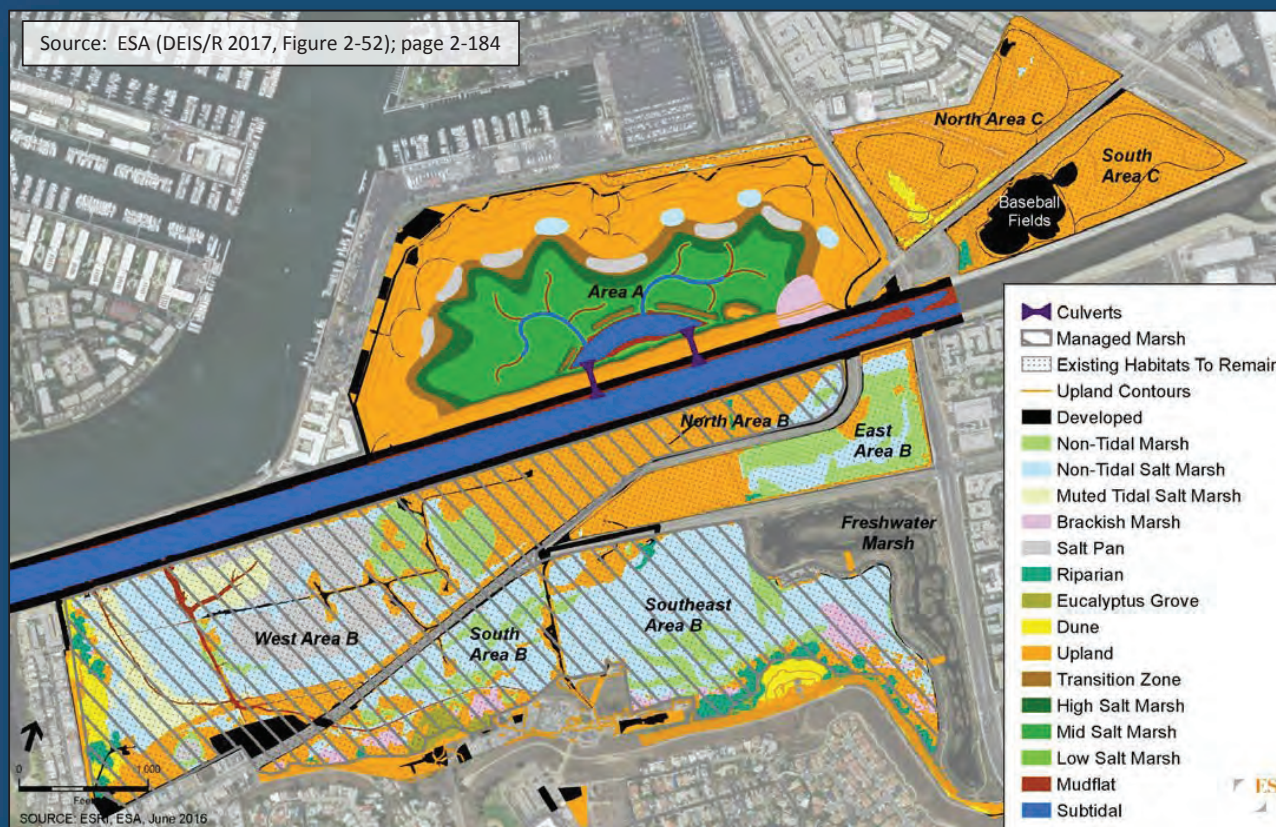


O2-177  
cont.





## Ballona Wetlands Restoration Project (Alternative 3 – DRAFT graphic illustration)



O2-177  
cont.





## Ballona Wetlands Restoration Project (Alternative 4 – No Project )

No change.

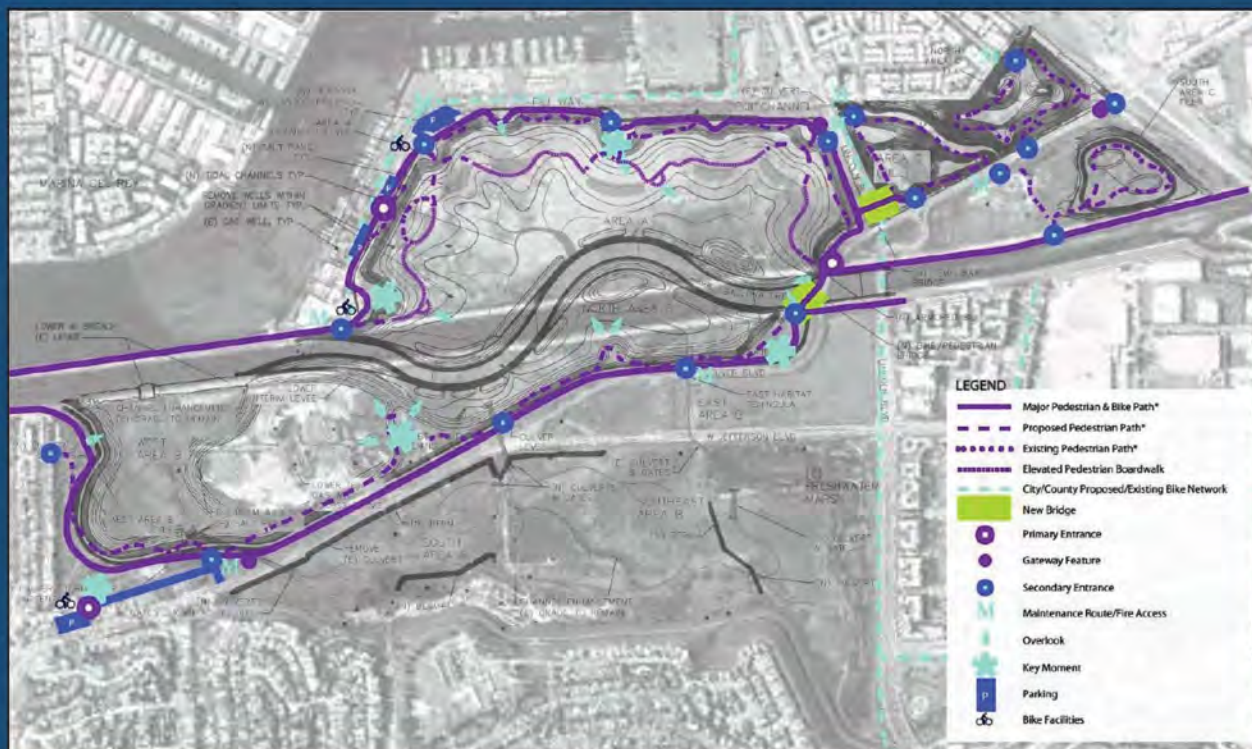
- Existing management and community volunteer restoration efforts would continue.
- Ongoing influence of sea level rise would substantially impact tidal wetlands and related habitats over time
- Invasive species would continue to invade the Project site and degradation that has been documented for the past six years would continue.

2.2.1 TABLE 2-1c Summary of Alternatives:  
Alternative 4 Ecosystem Restoration pg. 2-16

O2-177  
cont.



## Ballona Wetlands Restoration Project (Alternative 1 – DRAFT public access)



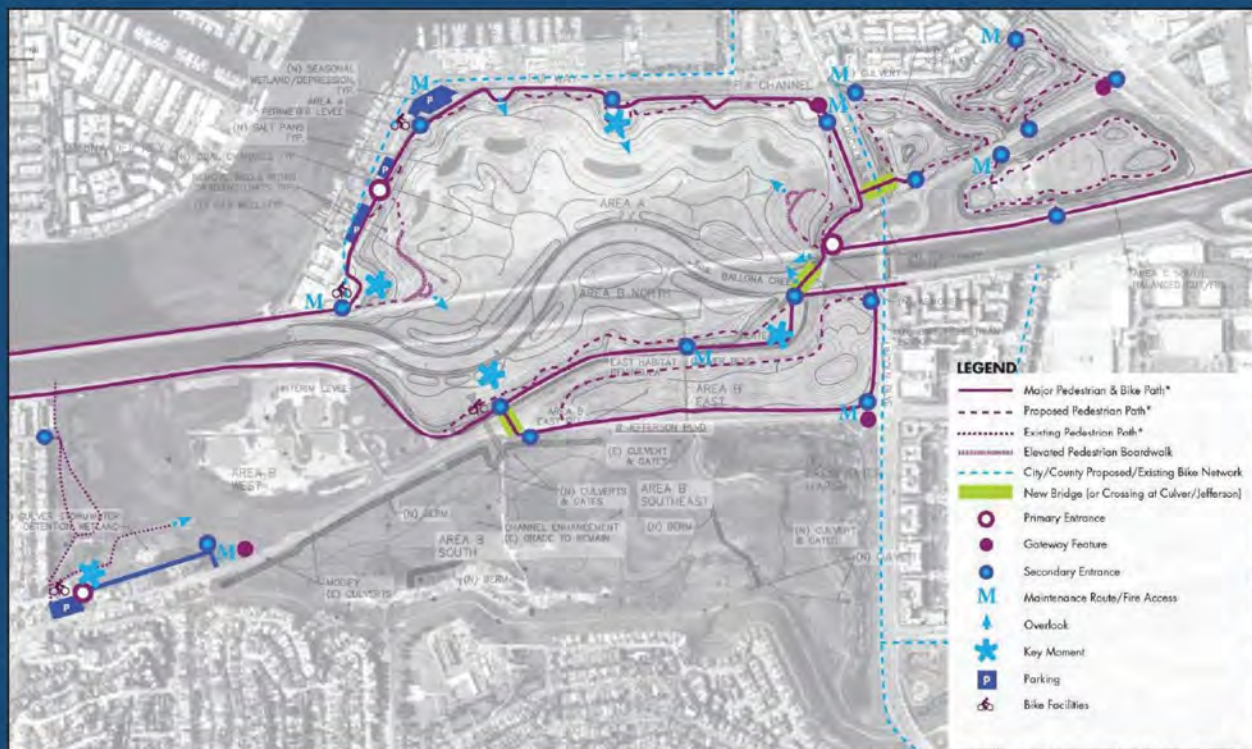
Note: paths shown are approximate  
Source: Melendrez and ESA (DEIS/R 2017, Figure 2-23); page 2-101

O2-177  
cont.





## Ballona Wetlands Restoration Project (Alternative 2 – DRAFT public access)



Note: paths shown are approximate

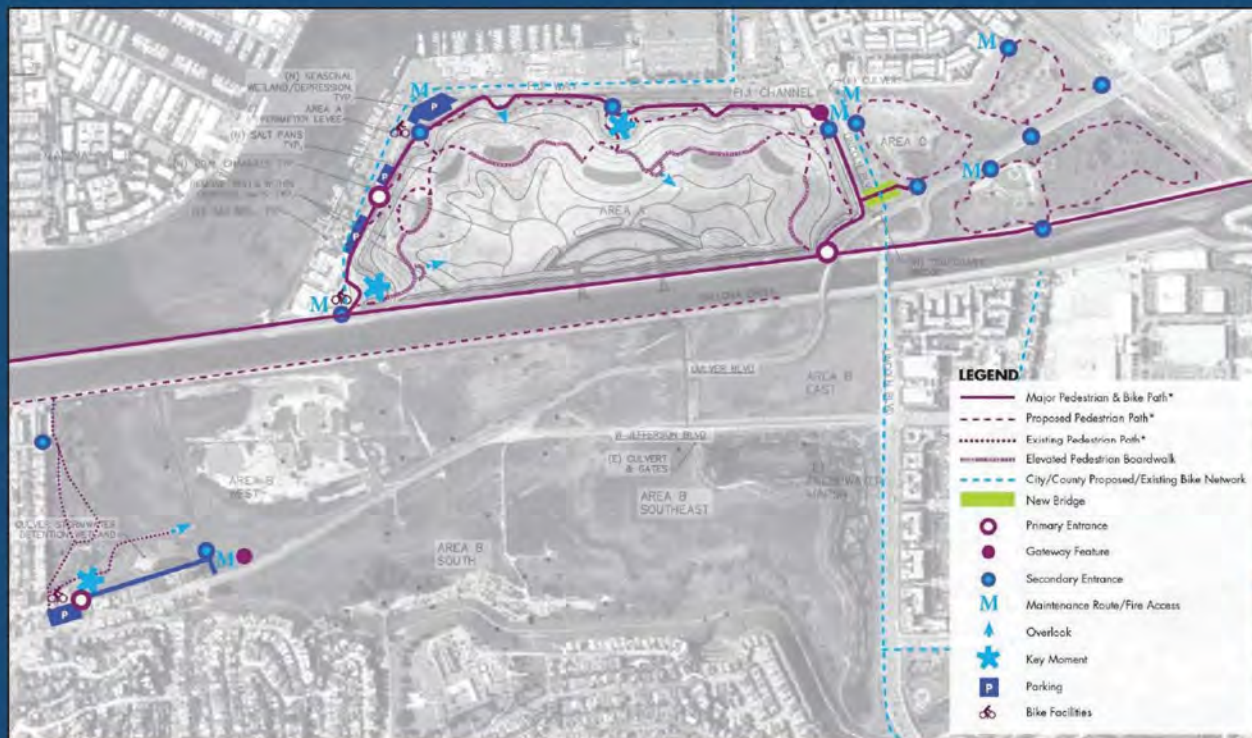
Source: Melendrez and ESA (DEIS/R 2017, Figure 2-45); page 2-162

O2-177  
cont.





## Ballona Wetlands Restoration Project (Alternative 3 – DRAFT public access)



Note: paths shown are approximate

Source: Melendrez and ESA (DEIS/R 2017, Figure 2 54): page 2 186

O2-177  
cont.



## Ballona Wetlands Restoration Project (Alternative 4 – DRAFT public access)

No change

- No new visitor or recreational amenities would be provided
- Existing public access restrictions would continue
- No parking structure would be built, and no improvements to existing parking areas would be made.

2.2.1 TABLE 2-1c Summary of Alternatives:  
Alternative 4 Public Access and Visitor Amenities pg. 2-16

O2-177  
cont.



QUESTIONS?



[www.santamonicabay.org](http://www.santamonicabay.org)  
[www.ballonarestoration.org](http://www.ballonarestoration.org)

O2-177  
cont.



**From:** [Kathy Knight](#)  
**To:** [Wildlife Ballona Wetlands Ecological Reserve EIR](#); [Bonnie L. Rogers](#)  
**Subject:** Ballona Draft EIR/EIS Comments: Public Has Been Left Out of BWER Restoration Process  
**Date:** Monday, February 5, 2018 1:52:55 PM

---

Date: February 5, 2018

To: Richard Brody, Land Manager, California Dept. of Fish & Wildlife

Bonnie Rogers, Senior Project Mdanager, United States Army Corps of Engineers

From: Kathy Knight, for Grassroots Coalition and Ballona Ecosystem Education Project  
(310) 450-5961  
[kathyknight66@gmail.com](mailto:kathyknight66@gmail.com)

RE: Public Has Been Left Out of the BWER Restoration Process

Please add these examples of the many articles and letters to the editor written describing how the public has been left out of the restoration planning process for the publicly owned Ballona Wetlands Ecological Reserve (BWER). This is not okay, as these citizens fought for many years to get this remaining coastal wetland saved and purchased by the State of California.

O2-178

This planning process needs to be stopped and redone with these people involved in a meaningful way with the restoration. We have alot of information that is not being considered in the current version of a draft EIR/EIS.

O2-179

Thank you.

Kathy Knight, on behalf of Grassroots Coalition and Ballona Ecosystem Education Project

Some of the Articles and Letters to the Editor That Describe How The Public Has Been Left Out Of The Ballona BWER Restoration Process:

Hard copies of these articles will be sent in also for the record, since some do not have internet links that are easily accessible.

O2-180

1. Could the Ballona Wetlands Still Face Bulldozers? Culver City News, March 26, 2009

2. Conservationists Happily Welcome Threatened Bird Back to the Area, Argonaut Newspaper, March 28, 2013 (Important information discovered by local environmentalists Jonathan Coffin and Marcia Hanscom with significance regarding proposed restoration)

O2-181

3. Eco-jihadists Fight for Ballona (Article about citizens fighting to stop a large development on the wetlands by Annenberg Foundation)  
LA Weekly, July 11, 2013

O2-182

4. [LAWEEKLY.COM/NEWS/IS-THE-STATE-OF-CALIFORNIA-PLOTTING](#) THE BALLONA WETLANDS DEMISE? BY JOSEPH TSIJUIKO JANUARY 10-16, 2014

O2-183

5. Showdown at Ballona Gap, Free Venice Beachhead, May 2014

O2-184

6. [Heiress Wallis Annenberg Abruptly Drops Her Plan for ... - LA Weekly](#)

[www.laweekly.com/.../heiress-wallis-annenberg-abruptly-drops-her-plan-for-building...](#) ▼

Dec 3, 2014 - **Heiress Wallis Annenberg's** stunning abandonment of **her** dream to **build** a large, widely ridiculed visitor “appreciation” center on the protected **Ballona Wetlands** has buoyed environmental groups trying to protect its hundreds of acres of meadows, seasonal creeks and thriving brackish saltwater on the ...

7. Is the Ballona Wetlands Restoration Project Truly A Restoration? [www.latimes.com](#), Letters to the Editor November 30, 2017

8. This Changes Everything: Ballona Wetlands to Get Its RainWater Back, (Article about California Coastal Commission voting unanimously to support the withdrawal of illegal drains for the past 20 years in the Ballona Wetlands) [laprogressive.com](#) December 28, 2017

9. [Restoration could open Ballona Wetlands to public. But critics say the ...](#)

[www.dailybreeze.com/.../why-environmentalists-are-at-odds-over-the-restoration-of-l...](#) ▼

Nov 27, 2017 - Volunteers gathered to help clear non-native plants and do other restoration work at **Ballona Wetlands** Ecological Reserve, the largest surviving .... But the **state** eventually recognized its importance and, in 2004, took ownership of the natural wetlands directly south of Marina del Rey and east of Playa del

10. Re “Fighting Dirty” Letter to the Editor, November 26, 2017

Reporter Sandy Mazza’s coverage of the Ballona redevelopment proposal was good as far as it goes. But it could have gone further. The story, for example, makes no mention of the well-respected, organized opposition to the proposed project.

This opposition includes the Los Angeles Audubon Society, the local Sierra Club, Food and Water Watch, and by a remarkable 99-1 vote, the Los Angeles County Democratic Party.

The Ballona story could also have gone deeper. An investigation into which of the organized project supporting versus project opposing groups benefit financially from the proposed Ballona project is needed.

Such an inquiry would reveal that the three non-profit groups mentioned above are using their own funds to oppose the project and neither have received nor expect to receive any financial gain in return.

By contrast, project supporting groups mentioned in the article, like the Friends of Ballona and Heal the Bay, have received and/or will receive substantial funds or salaries related to their involvement with this project.

— *David DeLange, Redondo Beach, Los Angeles Audubon Society*

2/23/2018

Is the Ballona Wetlands restoration project truly a 'restoration'?

SAVE NOW



Biologist Robert "Roy" van de Hoek, seen at the Ballona Wetlands in Marina del Rey, believes he's discovered a new species of sunflower growing there. (Christina House / Los Angeles Times)



Feedback

O2-186

To the editor: Focusing on the possible discovery of a rare plant at the Ballona Wetlands ignores a number of other reasons why the "restoration" project should not occur. ("A rare plant and a renegade environmental activist could derail Ballona Wetlands restoration," Nov. 23)

This is not a restoration, which is the act of returning something to its former condition. Rather, this entire project is about making Ballona a tidal wetland inundated with salt water, when historical photos and information strongly suggest this was mainly a freshwater wetland.





2/23/2018

Is the Ballona Wetlands restoration project truly a 'restoration'?

SAVE NOW

ADVERTISEMENT

Feedback

During a recent public hearing on the project, none of the advocates for this project even challenged this claim, which is something that should stop the so-called restoration.

Robert Vaghini, Los Angeles

O2-186  
cont.

2/23/2018

Is the Ballona Wetlands restoration project truly a 'restoration'?

ADVE

SAVE NOW

..

To the editor: I have been a resident of Marina del Rey for more than 18 years. I attended the public hearing on Nov. 8 at Burton Chace Park.

From the window of my gym across Lincoln Boulevard, I get a daily panoramic view of the Ballona Wetlands, which mostly looks like an overgrown landfill. In fact, most of the remaining wetlands is a landfill, as the dirt dredged out to create the marina was dumped into this area. It is overrun with non-native species.

I don't believe the wetlands can actually be "restored," but it can be made healthy again. Proponents of the project have put forth good workable proposals for doing just that, including the removal of fill dirt so as to improve water flow and remove non-native species. They also want to make the wetlands more accessible to visitors.

Feedback

O2-186  
cont.

2/23/2018

Is the Ballona Wetlands restoration project truly a 'restoration'?

ADVE

SAVE NOW

Doing nothing, as the opposition demands, is not a logical option.

Mark Johnson, Marina del Rey

..

To the editor: I was fascinated with the article about the Ballona Wetlands.

Over the years, biologist Robert "Roy" van de Hoek, whose unverified discovery of a rare plant species could stop a controversial restoration project, has educated many students and parents at our school about plant and animal life at the Ballona Wetlands. His knowledge is so extensive and his curiosity boundless.

How exciting to hear he may have discovered another rare plant. Thanks to The Times for keeping us abreast of the constant tug-of-war surrounding this vital stretch of land.

Deirdre Gainor, Venice

..



O2-186  
cont.



2/23/2018

Is the Ballona Wetlands restoration project truly a 'restoration'?

ADVE

SAVE NOW

To the editor: Independent citizen groups have been a critical part in saving the Ballona Wetlands Ecological Reserve.

In the late 1990s, the group Grassroots Coalition alerted the city of Los Angeles to oil field gas leaking out of the Playa Vista development site. The project's experts denied there was a problem. After years of volunteers giving their time, Grassroots got the city to have an independent expert conduct a study.

That study showed Grassroots was right — there was a major gas leak at the site that required a new experimental gas mitigation system to be installed. Because of the gas issue, Playa Vista became a willing seller to the state of the wetlands west of Lincoln Boulevard.

Restoring Ballona as the seasonal freshwater wetland it is will be safer for the wildlife and plants and will use much less of our precious taxpayer funds.

Kathy Knight, Santa Monica

The writer is project manager for the Ballona Ecosystem Education Project.

Follow the Opinion section on Twitter [@latimesopinion](#) and [Facebook](#)

Feedback

O2-186  
cont.

2/23/2018

This Changes Everything: Ballona Wetlands to Get its Rainwater Back! - LA Progressive



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# This Changes Everything: Ballona Wetlands to Get its Rainwater Back!

BY MARCIA HANSCOM

O2-187

2/23/2018

This Changes Everything: Ballona Wetlands to Get its Rainwater Back! - LA Progressive



Two Great Blue Herons – an adult and a juvenile – in the marsh. (Photo by Jonathan Coffin)

## Victory for the Ballona Wetlands at the California Coastal Commission

For more than 30 years activists have worked to protect undeveloped land where some of the last native plants and animals of the Los Angeles coast still thrive – a place nestled in the Ballona Valley in between Los Angeles International Airport and Marina del Rey. The remaining open spaces and the marina were once part of a vast coastal marsh floodplain that was created by the confluence of the Los Angeles River, three other streams and the Pacific Ocean.

What still remains undeveloped is a place known as the Ballona Wetlands. A significant part of these wetlands, along with adjacent grasslands and meadows, were acquired by the State of California when a purchase agreement was finalized in 2003 with Playa Capital, LLC, the latest in a series of speculative developers that had included the heirs of Howard Hughes, legendary downtown developer Rob Maguire and the golden boys of Hollywood in the 1990s, DreamWorks SKG – Steven Spielberg, David Geffen and Jeffrey Katzenberg.

O2-187  
cont.



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After Spielberg and his partners bowed out of being one-third development partners of the proposed Playa Vista development in 1999, remaining were some real estate investment trusts (REITs) owned by Morgan Stanley, Goldman Sachs and pension fund investors Union Labor Life Insurance Company. But grassroots environmental groups that had built a coalition of more than 100 organizations allied with them to be – as *Variety* put it – “relentless” – in their opposition to developing this last remnant of coastal wetlands in the heart of the migratory Pacific Flyway for birds – did not stop their activism just because DreamWorks left the project. In fact, the political street theatre troupe, FrogWorks (with its name inspired by DreamWorks), soon took its story to Wall Street and performed on the streets near the New York Stock Exchange, as well as outside of Morgan Stanley’s New York City headquarters – in January, no less!

Activists organized letter-writing campaigns, scheduled citizen town hall meetings, got involved with LA City mayoral campaigns and continued with the constant drum-beat that these lands should not be built on. When then-Governor Gray Davis finally decided to use funding the activists had helped include in a couple of parks and wildlife bond measures to acquire some 640 acres of the coastal zone land at Ballona, (and Playa Capital was already building on the remaining 400+ acres), the activists who’d long desired to protect these precious lands thought they would be retiring – helping to plant native plants and educate the public about the importance of stewardship of this wild and imperiled coastal mosaic of habitats.

Unfortunately, after Davis was kicked out of office in a recall largely funded by US Congressman Darrell Issa, the state of California went downhill financially. After that, the Ballona Wetlands mostly had an absentee landowner – an agency that never really wanted the land and that was not used to managing reserves close to urban areas – the California Department of Fish & Wildlife (CDFW.) So perhaps their regular absence explains why this agency didn’t notice that there were two large drain mechanisms that prevented rain water from soaking into the wetland sponge-like soils. These mechanisms, according to representatives from Playa Capital, were built by their engineers in 1996, when the company still thought it would be constructing one-half of its massive, dense city atop the areas where these drains were constructed.

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cont.

One of the illegal drains – demonstrating how the rainwater would enter the structure and be sent out to sea – instead of nourishing the wetlands. (Photo by Jonathan Coffin)

Why would this company have constructed the drains?

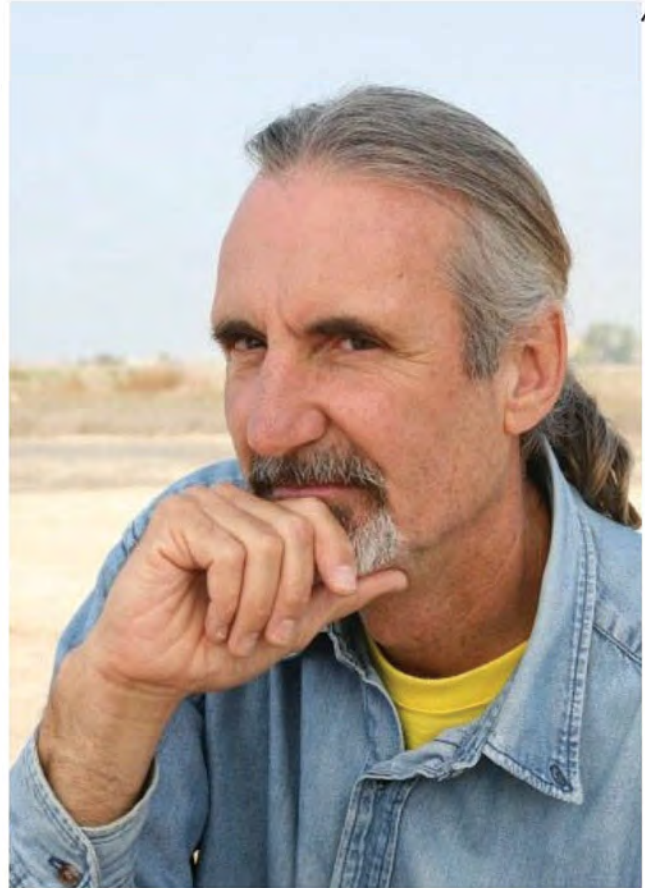
Well, if you have land in the California coastal zone and you want to build structures and roads there, you don't want them to be declared to be wetlands – due to an important Bolsa Chica Wetlands lawsuit that clarified in the state appellate courts that the Coastal Act would not allow such activities. They wanted dry land so they could obtain permits from the Coastal Commission once they were ready to build Phase 2 of their project. Did Playa Capital forget about the drains when they sold all of the land they owned in the coastal zone? The record is unclear on this count.

But it is clear that these illegal, unpermitted drains (which would have required permits from the California Coastal Commission), prevented rain water – the primary source of water for the wetlands – from making the wetlands wet – for more than 20 years!

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This became transparent as a result of a series of actions. I first noticed the drains and wondered aloud about them to my partner, a biologist also trained in hydrology, Roy van de Hoek, who'd seen them, but began observing them more closely and we also conferred with one of our Ballona Wetlands naturalists, Jonathan Coffin. Jonathan began photographing the drains at different times of year, including during rainy times, and that's when it became obvious that the rainwater was indeed draining out from some significant parts of the wetlands where a number of activists had noticed and remarked that they missed seeing ducks and shorebirds in what used to be heavily ponded water areas. Jonathan showed his photos to Patricia McPherson at Grassroots Coalition, an activist who had been uncovering illegal and questionable activities by Southern California Gas – at their methane storage field at Ballona for years.



Robert Roy van de Hoek

O2-187  
cont.

Patricia then reported these findings to enforcement staff at the Coastal Commission, who corresponded with Playa Capital and the current landowner, CDFW, to determine how and when the drainage structures had gotten there. The Coastal Commission staff then declared that these were indeed illegally installed structures, and concluded that there were violations of the California Coastal Act that needed to be remedied.

Then nothing happened.

Because the Coastal Commission shares legal counsel (the state Attorney General) with CDFW, they do not as a rule file litigation against their sister agencies. But the Coastal Act allows for citizens and citizen groups to file enforcement actions, so Patricia hired public interest lawyer Todd Cardiff, who filed an enforcement lawsuit that resulted in a settlement which required that the California Department of Fish & Wildlife would file an application to cap these illegal drains so that rainwater could once again feed these coastal marsh lands.



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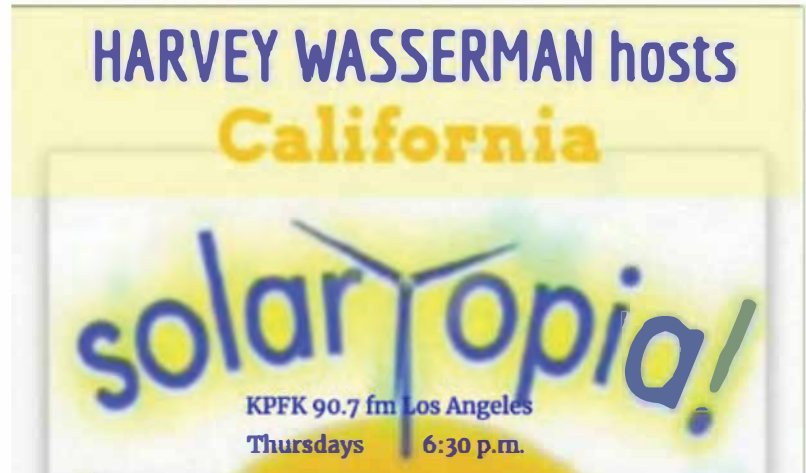
This Changes Everything: Ballona Wetlands to Get its Rainwater Back! - LA Progressive

This past December 14th, in Dana Point, the Coastal Commission met and after a lengthy hearing, voted unanimously to require CDFW to cap these drains. Staff for the Commission had suggested – at the request of CDFW – that the drains not be removed until a determination had been made about a terribly destructive plan CDFW has on its agenda, in cooperation with SoCalGas. Activists call this plan an industrial habitat alteration, and Sierra Club, Los Angeles Audubon Society, Food & Water Watch, Ballona Institute and numerous other groups have opposed the plans, warning they would be detrimental to the wildlife at this fragile ecological reserve.

SoCalGas is involved because they have a huge network of gas pipes and wells under the wetlands where they store fracked gas they pipe in from Oklahoma and Texas (the storage field is similar to the one in Aliso Canyon that is still leaking gas and toxic chemicals which are making residents sick.)

And SoCalGas wants to access public funding through this massive industrial project to modernize their equipment, implement slant drilling and ensure they can continue the storage operations for many years. Food & Water Watch, Ballona Institute and Indivisible-43 are working to shut this facility down, so that the City of Los Angeles can make good on its stated commitment to only have 100% renewable energy (gas from this storage field currently powers LADWP's Scattergood power plant down the road from Ballona.)

After the Coastal Commissioners heard about all of these complications, they became concerned over staff's recommendations, as activists warned that this plan would bulldoze everything and start over, converting a mostly fresh and brackish water coastal wetland into an extension of Santa Monica Bay. Such a plan is not only historically inaccurate according to restoration ecologists and scientists (like Dr. Margot Griswold and Dr. Travis Longcore) who've studied the historical geography and ecology of the area – but would essentially wipe out functioning habitat for eight



Marcia Hanscom and Roy van de Hoek will be Harvey Wasserman's guests this evening on the 6:30 pm Thursday, December 28th edition of California Solartopiaradio show on KPFK 90.7 fm. The show will focus on the Ballona Wetlands and provide an update on community efforts to save Santa Monica's unique and magnificent 100 year old California Sycamore which is in danger of being chopped down. Please tune in to the show and learn how you can help save the wetlands and save this important tree.

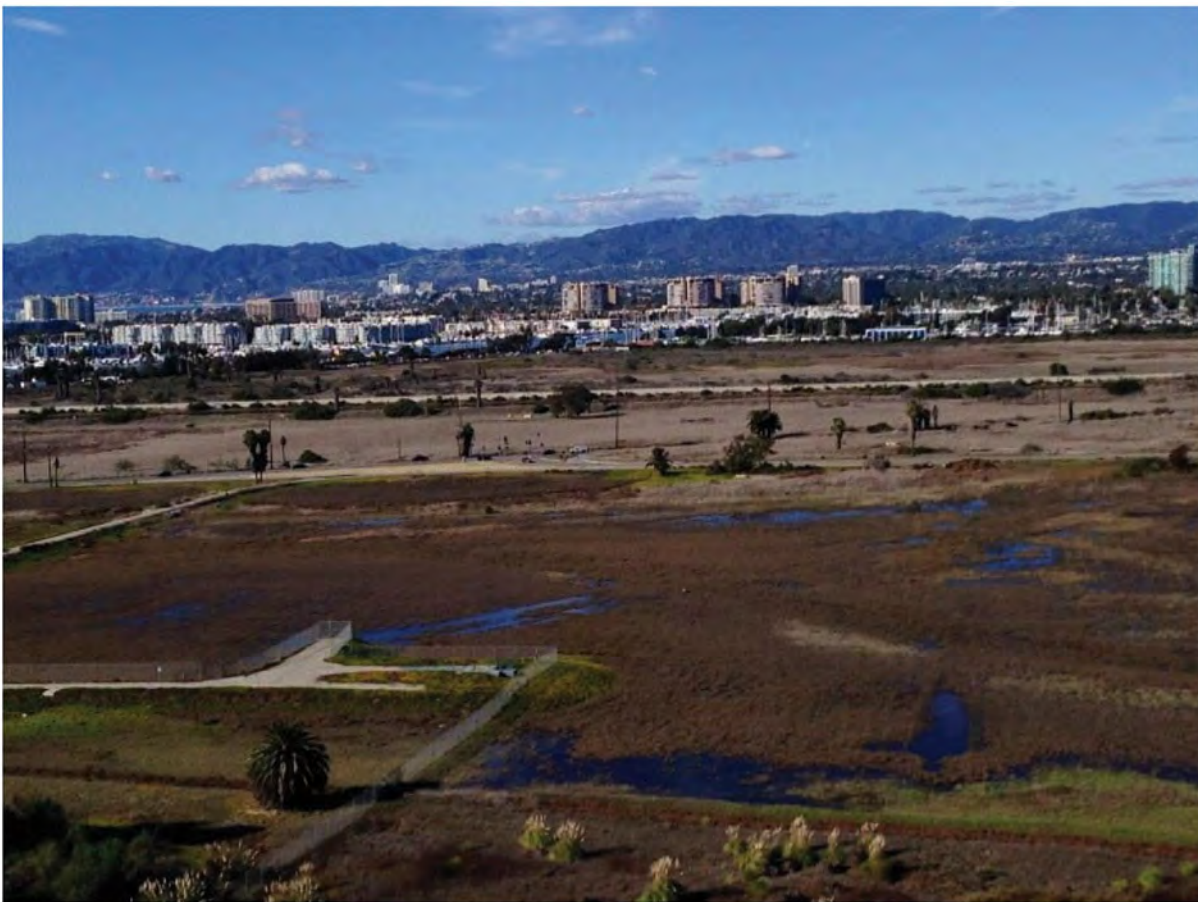
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species on the California or federal Endangered Species lists, and dozens of species on other sensitive lists, like the California List of Species of Special Concern.

In light of these expressed concerns, the Coastal Commission, led by a couple of newly-appointed Commissioners who appear to be taking their jobs very seriously to protect coastal resources, declared that the illegal drain situation was not to be tied to what may be a flawed plan for Ballona that activists even hesitate to call a “restoration,” – but that CDFW would be required to return to the Commission within months with a plan for fully removing these drain structures. Given that there are methane gas pipelines beneath the surface of the soils, that application process will also likely prove highly controversial.



Winter, 2014, where in the foreground are the wetlands which show the blue water ponding and sloughs from the rains – in the part of the wetlands where there were no illegal drains – and – in the background, the wetlands are obviously dry, where the illegal drains exist. (photo by Marcia Hansom)

Nevertheless, activists from Sierra Club, Grassroots Coalition, Ballona Institute and Ballona Ecosystem Education Project were all thrilled that the Commission voted unanimously to close up those illegal drains so that the winter rains could refresh the wetlands, and that the more complete

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drain removal would not be tied to what some activists refer to as the bulldozing project masquerading as a restoration.

This Coastal Commission victory is a huge win for the Ballona Wetlands. The implications of learning that these drains have been not allowing rainwaters to enter the soils in parts of the ecological reserve for more than 20 years are significant.

All of the scientific studies that CDFW and the US Army Corps of Engineers have relied on in their draft Environmental Impact Report (EIR) and Environmental Impact Statement (EIS) were compiled during the past decade when an important portion of the wetlands was being deprived of its most important water source.

Therefore, activists maintain that the EIR/EIS must be withdrawn, and the wetlands allowed to have its fresh rainwater soaking into the soils for at least 8 to 10 years before a new baseline for scientific study can be properly employed.

**W**ith this new, dramatic information now having been revealed, Ballona Wetlands advocates are asking that members of the public write to and/or call the following decision-makers to ask that the draft EIR/EIS be withdrawn until a new baseline for scientific study can be assured, including new delineations of wetlands – which must be undertaken after a proper amount of time can pass (8-10 years) once the rain waters again are soaking into the soils. All of these elected officials have some discretionary influence or actual decision-making authority for this project.

The Honorable Ted Lieu  
United States Congress – 33rd District Rep.  
5055 Wilshire Boulevard, Suite 310  
Los Angeles, CA 90036  
Phone: (323) 651-1040

The Honorable Maxine Waters  
United States Congress – 43rd District Rep.  
10124 South Broadway, Suite 1  
Los Angeles, CA 90003  
Phone: (323) 757-8900

The Honorable Kamala Harris  
United States Senate

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312 N. Spring Street, Suite 1748  
Los Angeles, CA 90012  
Phone: (213) 894 – 5000

The Honorable Dianne Feinstein  
United States Senate  
11111 Santa Monica Blvd., Suite 915  
Los Angeles, CA 90025  
Phone: (310) 914-7300

The Honorable Janice Hahn  
Supervisor, 4th District  
County of Los Angeles  
500 W. Temple Street, Room 822  
Los Angeles, CA 90012  
Tel: (213) 974-4444

The Honorable Ben Allen  
California Senate, 26th District  
2512 Artesia Blvd #320  
Redondo Beach, CA 90278  
Phone: (310) 318-6994

The Honorable Autumn Burke  
California Assembly, 62nd District  
1 W Manchester Blvd, Inglewood, CA 90301  
Phone: (310) 412-6400

The Honorable Mike Bonin  
Los Angeles City Council, 11th District  
200 N. Spring St. #475  
Los Angeles, CA 90012  
Phone: (213) 473-7011

**Marcia Hanscom**  
Ballona Institute  
The Voice for Nature on the Los Angeles Coast

O2-187  
cont.

2/5/2018

Restoration could open Ballona Wetlands to public. But critics say the plan would bring mass destruction – Daily Breeze

LOCAL NEWS

## Restoration could open Ballona Wetlands to public. But critics say the plan would bring mass destruction



Volunteers gathered to help clear non-native plants and do other restoration work at Ballona Wetlands Ecological Reserve, the largest surviving wetlands in greater Los Angeles. This group was clearing ice plant. Culver City November 25, 2017. Photo by Brittany Murray, Daily Breeze/SCNG

By [SANDY MAZZA](#) | [amazza@scng.com](mailto:amazza@scng.com) | Daily Breeze

PUBLISHED: November 27, 2017 at 7:40 am | UPDATED: November 30, 2017 at 2:52 pm

4 COMMENTS

A new restoration plan to bulldoze nearly 3 million cubic yards of dirt from the Ballona Wetlands Ecological Reserve — the largest remaining wetlands in the Los Angeles area — has mobilized fierce opposition.

The 566-acre site, once a network of meandering waterways, meadows and marshes, was decimated when Marina del Rey's harbor was dredged in the 1960s. The fill was dumped indiscriminately across the unique landscape, drying it up and forcing out native plants and animals.

But the state eventually recognized its importance and, in 2004, took ownership of the natural wetlands directly south of Marina del Rey and east of Playa del Rey. Since then, efforts to restore it have made slow progress: Playa Vista developers installed a 26-acre freshwater marsh and volunteers regularly gather there to clear overgrown weeds.

Now, a major plan to bring back the wetlands has received wide support from leading environmental groups.

But critics say the proposed restoration project would result in widespread death and displacement of animals that have settled in the reserve's meadows and marshes.

O2-188

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Restoration could open Ballona Wetlands to public. But critics say the plan would bring mass destruction – Daily Breeze

"This will be death by bulldozer," said Marianne Tyler, a resident of Playa del Rey, at a public hearing earlier this month on the project's draft environmental impact report. She's one of dozens of opponents who argue that heavy-duty equipment shouldn't be allowed on the preserve. "Those animals not killed by the bulldozers will be displaced from their homes."

Opponents want the plan scrapped, though it was scientifically studied and developed with public input over the past five years by the State Coastal Conservancy, The Bay Foundation and the Department of Fish and Wildlife.

"I think the proposal should be withdrawn," said critic Ben Hamilton. "They say you can't do this by hand. They built the pyramids by hand. They built the Great Wall of China by hand."

The 1,242-page draft environmental impact report for the proposed restoration is open for public comment through Feb. 5. Once the comment period closes, a final draft can be submitted that would clear the way for work permits to be issued by the U.S. Army Corps of Engineers.

The region's leading environmental groups and scientists support the broad strokes of the plan. They formed the Wetlands Restoration Principles Coalition that includes Heal the Bay, Surfrider Foundation, Los Angeles Waterkeeper, Friends of Ballona Wetlands and others.

"Doing nothing means the wetlands will die," said Scott Culbertson, executive director of Friends of Ballona Wetlands. "Doing nothing means the wetlands will continue to degrade as invasive plants take over. Restoring Ballona Wetlands is a no-brainer and it should not be controversial."

### 'Make the wetlands wet again'

The state took control of the reserve in 2004, blocking further development of an area that once stretched more than 2,100 acres along the coast from Playa del Rey to Venice, and inland to what is now the Crenshaw District of South Los Angeles.

The federal Environmental Protection Agency determined that 97 percent of the Ballona Wetlands reserve is badly degraded from midcentury development projects.

"While the work to remove invasive species and plants by hand is important and rewarding, it is wholly unsuited to the type of intervention needed to undo the misdeeds of the past," said Patrick Tyrrell, program manager of Friends of the Ballona Wetlands. "We need to remove the fill that was dumped on top of the historical wetlands, and stop the rampant march of invasive species. We need to make the wetlands wet again."

Restoring Ballona Creek also is a key part of the project. The effort seeks to remove up to 9,800 feet of concrete levees installed during county flood-control efforts in the 1920s.

With the concrete gone, the creek could return to its original meandering path through the meadows, ponds and marshes. Instead, "broadly sloping, partially earthen" levees would be installed to protect from flooding that is expected to be accelerated by sea-level rise.

"Wetlands are where the fresh and salt water meet and create this brackish habitat. They naturally filter water so bacteria and nutrients can get taken out by plants and animals," said Sarah Sikich, vice president of Heal the Bay. "Ballona has lost that function because of the land's disconnection from water."

### Plan protections

The plan includes numerous protections for plants and animals that would be affected by the work, which would be staggered over a decade.

Biologists would arrive before the construction work, scouring areas for endangered El Segundo blue butterflies, burrowing owls, bats, least Bell's vireos, Savannah sparrows, California gnatcatchers, silvery legless lizards, least terns, San Bernardino ring-necked snakes and others.

Areas with nesting animals would be avoided, and mitigation measures would be put in place to avoid harming other animals, such as catching and relocating them to unaffected areas or creating artificial burrows to entice them elsewhere.

"I think we have a rare opportunity to really bring back a unique habitat," said Katherine Pease, Heal the Bay's watershed scientist. "I have confidence that efforts will be put in place to protect the wildlife that is there now. This is based on sound science."

But opponents aren't convinced.

"The Ballona Wetlands is a vibrant place full of life," said Mar Vista resident Sharon King. "The wetlands foster all kinds of native plants and provide critical habitat to countless species of insects, birds and animals. It is in no way a place that needs to be devastated by the radical actions that have been proposed."

"If, as you say, the Ballona Wetlands is dying, why on earth have they been taking children on tours to view its degraded corpse?"

The state-owned reserve is mostly closed off to the public, but it is open for occasional tours and restoration events.

O2-188  
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2/5/2018

Restoration could open Ballona Wetlands to public. But critics say the plan would bring mass destruction – Daily Breeze

The plan also would reopen it to public use, creating new hiking trails, bike paths and a new parking garage to accommodate visitors on the northern edge of the site, along Fiji Way.

"Right now, to have 600 acres paid for by state taxpayers who have no access to it is unacceptable," said Meredith McCarthy, director of programs at Heal the Bay. "I'm exceedingly excited that we have a future of interpretive opportunities here."

But the idea of erecting a parking garage next to this sanctuary amid dense urbanization drew concern.

"Under the plan, the Ballona Wetlands Ecological Reserve would become the first ecological reserve in the state to get a three-story parking garage," said Walter Lamb, president of the Ballona Wetlands Land Trust, one of a handful of grass-roots groups organized to protect the area. "This ecosystem is already too fragmented and too encroached upon. We don't have the luxury of giving away 2 acres to parking."

Construction noise, lighting, odors, air-pollution emissions, dust and traffic would be mitigated but would still have localized impacts, according to the report. Also, Little League fields in the upper areas of the wetlands would be temporarily closed during construction.

The draft environmental impact report can be accessed at [www.wildlife.ca.gov/Regions/5/Ballona-EIR](http://www.wildlife.ca.gov/Regions/5/Ballona-EIR), and comments can be submitted via email to: BWERcomments@wildlife.ca.gov.

## Ballona Wetlands Restoration

A federal plan to restore the largest remaining wetlands reserve in greater Los Angeles, adjacent to Playa del Rey and Marina del Rey, is now under public review. The nearly 600-acre reserve is sectioned into three regions that are all partially covered in fill, but have different features.



### About the areas

- Area A: Besides large amounts of dumped fill, this contains Ballona Creek's concrete levees that would be removed under the plan.
- Area B: Restoration work has already been done on a freshwater marsh in the southwest corner of this area, but dumped fill and non-native plants would be removed.
- Area C: Mostly a dry uplands area of the reserve with Little League fields that may be relocated. Dumped fill from the construction of Ballona Creek and Culver Boulevard would be removed, and the area would be reconnected to the wetlands.

Source: United States Army Corps of Engineers, Los Angeles District

Paul Penzella — SCNG

O2-188  
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**From:** Kathy Knight [\[mailto:kathyknight66@gmail.com\]](mailto:kathyknight66@gmail.com)  
**Sent:** Monday, 5 February, 2018 4:07 PM  
**To:** Comments BWER <[BWERcomments@wildlife.ca.gov](mailto:BWERcomments@wildlife.ca.gov)>; Rogers, Bonnie L CIV USARMY CESPL (US) <[Bonnie.L.Rogers@usace.army.mil](mailto:Bonnie.L.Rogers@usace.army.mil)>  
**Subject:** [Non-DoD Source] Ballona Draft EIR/EIS Comments - More Articles Ballona Environmentalists Fighting to Protect Ballona

Please delete the last version, and use this revised version of articles.  
Thank you,  
Kathy Knight

On Feb 5, 2018, at 3:29 PM, Kathy Knight <[kathyknight66@gmail.com](mailto:kathyknight66@gmail.com)> wrote:

February 5, 2018

Richard Brody, Land Manager  
California Dept. of Fish & Wildlife

Bonnie L. Rogers, Senior Project Manager  
U.S. Army Corps of Engineers

From: Kathy Knight  
Ballona Ecosystem Education Project and Grassroots Coalition  
(310) 450-5961

Additional Articles Re: Ballona Environmentalists Having to Fight Against  
Threats to Ballona Wetlands Ecological Reserve  
Again, hard copies will be mailed to you since internet links are not always  
available.

1. [Lawsuit is filed over proposed interpretive center at Ballona  
Wetlands...](#)

[articles.latimes.com/2013/sep/15/local/la-me-ballona-wetlands-20130916](http://articles.latimes.com/2013/sep/15/local/la-me-ballona-wetlands-20130916)

O2-189

O2-190

Sep 15, 2013 - (Al Seib / **Los Angeles Times** ). The **Ballona Wetlands** Land Trust has **sued** the California Department of Fish and Wildlife to force resolution of a months-long dispute **over** access to records related to the Annenberg Foundation's **proposal** to build an **interpretive center** in a portion of the **Ballona Wetlands**.

O2-191

2. [A bad fit for Ballona Wetlands - latimes - Los Angeles Times](http://articles.latimes.com/2013/sep/20/opinion/la-ed-0920-ballona-wetlands-20130920)  
[articles.latimes.com/2013/sep/20/opinion/la-ed-0920-ballona-wetlands-20130920](http://articles.latimes.com/2013/sep/20/opinion/la-ed-0920-ballona-wetlands-20130920)

O2-192

Sep 20, 2013 - It's not surprising that the Annenberg Foundation's plans for an expansive interpretive center in the **Ballona Wetlands** Ecological Reserve has stirred controversy. The cherished 640-acre reserve that.

O2-193

3. Annenberg pulls \$45M for Ballona project, Daily Breeze, December 3, 2014

O2-194

4. [Secret Drain System Below Ballona Wetlands Under ... - LA Weekly](http://www.laweekly.com/.../secret-drain-system-below-ballona-wetlands-under-investigatio...)  
[Blockedwww.laweekly.com/.../secret-drain-system-below-ballona-wetlands-under-investigatio...](http://www.laweekly.com/.../secret-drain-system-below-ballona-wetlands-under-investigatio...)

O2-195

Jul 18, 2013 - (See side-by-side comparison photos **below**:) How the developers' **secret drainage system** wiped out **Ballona's** life-giving water. Jonathan Coffin. Said Davis, "It's like a huge bathtub **drain**." The **drain** is "**under investigation**" and at the stage of "gathering facts," according to Andrew Willis, an enforcement ..

O2-196

5. [Coastal Commission wants Playa Vista to ... - Los Angeles Times](http://www.latimes.com/.../la-me-ln-playa-vista-unpermitted-drains-wetlands-20140502-stor...)  
[Blockedwww.latimes.com/.../la-me-ln-playa-vista-unpermitted-drains-wetlands-20140502-stor...](http://www.latimes.com/.../la-me-ln-playa-vista-unpermitted-drains-wetlands-20140502-stor...)

O2-197

May 2, 2014 - The California **Coastal** Commission has asked the developer of Playa Vista to remove **drains** in the **Ballona** Wetlands that the **agency** said were not approved and have siphoned water from ... He added that the U.S. Army Corps of Engineers and other **agencies** were aware of and signed **off** on the **drains**. Coastal Agency wants drains out of Ballona, Los Angeles Times, May 3, 2014

6. Also, groups such as Friends of Ballona Wetlands who receive large grants from corporations and have connections to Playa Vista are granted access to the BWER to take the public on tours and other activities on the land, whereas the local environmental groups that do not take such funds are denied access to the property.

O2-198



Southern California Edison Awards \$35000 Grant to Friends of ...

[Blockedwww.ballonafriends.org/.../southern-california-edison-awards-35000-grant-to-friends-...](#)

Jan 15, 2014 - Left to Right: **SCE** Environmental Projects Manager David Kay, **Friends of Ballona Wetlands** Executive Director Lisa Fimiani, and **SCE** Region Manager Marissa Castro-Salvati with students of Hawthorne's Juan De Anza Elementary School. **Southern California Edison (SCE)** awarded a \$35,000 **grant** in ...

O2-199

Edison International Awards \$35,000 Grant to Friends of Ballona ...

[Blockedwww.ballonafriends.org/press/Edison%20Grant%20Release\\_%20Sept%202012.pdf](#)

Sep 17, 2012 - awarded a \$35,000 **grant** to the **Friends of Ballona Wetlands**, Los Angeles' preeminent wetlands ... volunteers in restoring native dune habitat at the western border of the 600-acre Ballona. Wetlands State ... vice president of Regulatory & Environmental Policy for **Southern California Edison**. "We've been ...

O2-200

Southern California Edison Awards \$30000 Grant to Friends of ...

[Blockedwww.ballonafriends.org/.../southern-california-edison-awards-30000-grant-to-friends-...](#)

Sep 8, 2010 - On Saturday, August 28, 2010, at our monthly Community Restoration Day, we were thrilled to announce that **Southern California Edison (SCE)** awarded a \$30,000 **grant** to the **Friends of Ballona Wetlands!** **SCE's** generosity will help the organization continue its stewardship and protection of the ...

O2-201

Friends of Ballona wetlands receives \$40,000 grant, Argonaut Newspaper, August 20, 2009

(Grant is from Southern California Edison )

O2-202



# Friends of Ballona Wetlands

<http://www.ballonafriends.org>

**Contact:**

Lisa Fimiani

(310) 306-5994

## **Edison International Awards \$35,000 Grant to Friends of Ballona Wetlands**

### *Donation Supports Friends' Education and Restoration Programs for Kids and Adults*

Playa del Rey, CA (September 17, 2012) – Edison International symbolically awarded a \$35,000 grant to the Friends of Ballona Wetlands, Los Angeles' preeminent wetlands education and preservation group, just before the Friends' regularly scheduled Open House from 2P-4P on Saturday, September 8<sup>th</sup>.

The grant will continue to provide bus transportation scholarships for schools that cannot afford field trips to the Ballona Wetlands, as well as field tools and intern oversight of school children visiting the wetlands, participating in habitat restoration and other community science educational activities. Each month, the Friends lead groups of volunteers in restoring native dune habitat at the western border of the 600-acre Ballona Wetlands State Ecological Reserve. The Friends perform this work as stewards under special permits granted by the California Department of Fish and Game.

This is the fifth year in a row that Edison International has awarded the non-profit a grant. "Last year Edison International's generous gift was used to purchase much-needed binoculars for our outreach and education programs," said Lisa Fimiani, executive director of the Friends. "This year we will further expand our K-12 outdoor educational programs into our new Ballona Discovery Park, a 1.7-acre open air public park with science and

cultural interpretive displays and a representational model of an interactive watershed exhibit, located in the community of Playa Vista surrounded by the Southern California Edison service territories of Marina Del Rey, Culver City, Inglewood and El Segundo."

Friends of Ballona Wetlands was formed in 1978 to save and protect the Ballona Wetlands, and has a dual mission of educating the public and representing the community during the upcoming state-sponsored restoration of the entire Reserve. The Reserve provides crucial habitat for hundreds of species of birds and other wildlife, as well as open space recreational opportunity for the public.

"Edison International is committed to improving the environment in the communities we serve by supporting organizations like the Friends, which engage the public in preserving our natural resources, and educating our youth," said Caroline Choi, vice president of Regulatory & Environmental Policy for Southern California Edison. "We've been impressed for some time with the depth and breadth of the Friends' education efforts, which encompass all ages, from kindergarten to senior citizens – and over 75,000 restoration volunteers since 1994."

Corporate contributions are paid for by Edison International shareholders, and not by utility customers.

"Friends is once again very excited to have the support of Edison International. This past year we were able to multiply the effect of the Edison International grant with a matching grant from REI to purchase field backpacks, and another grant from Loyola Marymount University's Center For Urban Resilience (CUREs) to acquire easy to carry bird ID cards. "Edison International understands the impact businesses have on the community and how 'giving back' helps improve the quality of life of its customers. We are so grateful for their continued support," said Fimiani.

Friends of Ballona Wetlands works in partnership with the California Coastal Conservancy and the California Department of Fish and Game, which have authority over the State-owned Ballona Wetlands Ecological Reserve, and other organizations tasked with protecting and monitoring the Wetlands, such as Mountains Recreation and Conservation Authority and Santa Monica Bay Restoration Commission.



An Edison International (NYSE:EIX) Company, Southern California Edison is one of the nation's largest electric utilities, serving a population of nearly 14 million via 4.9 million customer accounts in a 50,000-square-mile service area within Central, Coastal and Southern California.

The mission of the non-profit Friends of Ballona Wetlands is to champion the restoration and protection of the Wetlands, involving and educating the public as advocates and stewards. Each year, the Friends host 7,000 participants, community members of all ages and groups, pre-K children to post-grad young adults, for interpretive wetlands tours and hands-on dunes restoration, and partner with local Audubon chapters to educate an additional 2,000 upper elementary school students during the school year.

For more information, visit <http://www.ballonafriends.org>

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Editorial



## A bad fit for Ballona Wetlands

The Annenberg Foundation's idea for an animal adoption center there doesn't mesh with preservation efforts.

September 20, 2013 | By The Times editorial board

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It's not surprising that the Annenberg Foundation's plans for an expansive interpretive center in the Ballona Wetlands Ecological Reserve has stirred controversy. The cherished 640-acre reserve that stretches from Westchester to Marina del Rey has passionate advocates who often disagree on the best course for its restoration.



"Area C" of the Ballona Wetlands Ecological Reserve. (Los Angeles Times)

One element of the Annenberg plan that has come under fire is an animal adoption and care facility. That would be a welcome service in almost any other location in the Los Angeles area, but it doesn't fit into a preservation scheme for Ballona and should not be part of a final design plan.

Certainly, this would be a very small part of Annenberg's elaborate center and restoration efforts, to which the foundation is committing at least \$50 million in a partnership with the California Department of Fish and Wildlife (which controls the wetlands), the state's Coastal Conservancy and the Santa Monica Bay Restoration Commission. The animal adoption facility would take up about 1,500 square feet of the 46,000-square-foot interpretive center, as part of its educational narrative on the urban ecology of this area. "How do you leave cats and dogs out?" said Leonard Aube, executive director of the foundation.

The Annenberg Foundation has made no secret of its commitment to animal welfare, and it supports many organizations in that field. A few years ago, in partnership with the city of Rancho Palos Verdes, it tried to create a park at Lower Point Vicente with an interpretive center that also would have included a small animal adoption center. (That project ran into opposition too.) The foundation's involvement in animal welfare concerns, particularly pet adoption, should be applauded. But a domestic animal adoption center, as well intentioned and needed as those kinds of facilities are, does not belong at Ballona.

Stewardship of this precious wetland is paramount, and the abuse of it — littering, dumping of soil from construction of Marina del Rey developments — has been shameful. And preservation means restoring the wetlands to a habitat for the flora and wildlife that have thrived there in the past and stubbornly remain despite urban encroachment: great blue herons, burrowing owls, voles and lizards, among other creatures. Yes, wandering feral cats are an intrusion these days, as are people illegally walking their dogs. Those issues need to be dealt with.

But the reason the state bought this land more than a decade ago was to preserve the last sizable coastal marsh in Los Angeles County. The goal should be to work hard to restore it, as well as offer visitors an educational experience about the urban wetland.

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## Letter O2: Ballona Ecosystem Education Project

- O2-1 The commenter's opposition to all of the restoration alternatives is acknowledged and has been included in the record for the Project, where it can be taken into consideration as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.
- O2-2 CDFW disagrees with the commenter's assessment of the proposed restoration. See Response O2-1 regarding acknowledgement of the commenter's opposition to the proposed alternatives.
- O2-3 The statement that there are legal deficiencies in the Draft EIS/EIR is acknowledged as an unsubstantiated opinion. Without some information about the basis for the belief, CDFW does not have enough information to provide a detailed response.
- O2-4 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.6), which addresses multiple comments regarding the definition of "restoration." The Draft EIS/EIR acknowledges the jurisdiction of the Coastal Commission over the Project. See, e.g., the Corps' notice of intent (NOI) to prepare an EIS (77 Fed. Reg. 43577) and Draft EIS/EIR Table 1-1, Summary of Permits and Approvals. The Coastal Commission also has participated in the development of the environmental review for this Project by submitting a letter on the Draft EIS/EIR (Letter AS5), to which responses are provided in Final EIR Section 2.3.2. The appropriate entity to address the Project's compliance with the Coastal Act is the California Coastal Commission; a Consistency Certification will be required for the Project.
- O2-5 Potential direct, indirect, and cumulative impacts of the Project to water quality are analyzed in Draft EIS/EIR Section 3.9. See, for example, the analysis of Impact 1-WQ-1b, which concludes that contaminated water and sediment from the watershed could, unless mitigated, be transported into the restored marsh resulting in areas of accumulated contaminated sediments and potential exceedance of water quality limits set forth by the Ballona Creek TMDL. This impact was determined to be less than significant with mitigation incorporated. The analysis of Impact 2-WQ-1b concludes that, under Alternative 2, the potential for contaminated water and sediment from the watershed to be transported into the restored marsh resulting in areas of accumulated contaminated sediments and potential exceedance of water quality limits set forth by the Ballona Creek TMDL to be less than significant. Alternative 3 also was determined to result in a less-than-significant impact in this regard (see Impact 3-WQ-1b).

In any event, the Draft EIS/EIR acknowledges the relative jurisdiction of the Corps, the State Water Resources Control Board, and the Los Angeles Regional Water Quality Control Board over the Project relative to the wetlands and water quality. Regarding the Corps, see Draft EIS/EIR Section ES.2.2, Section 1.4.10, Section 1.6.1, and Table 1-1. Regarding the SWRCB and the RWQCB, see Draft EIS/EIR Section ES.2.4, Section 1.4.3, and Table 1-1. Any questions of the Project's



compliance with the Clean Water Act will be addressed by the agency with resource and subject matter expertise.

- O2-6 The purpose of the Project and restoration alternatives is to “restore ecological functions and services within the Ballona Reserve, in part by increasing tidal influence to achieve predominantly estuarine wetland conditions” (Draft EIS/EIR Section ES.3.1, Section 1.1.1). See also EIS/EIR Section ES.3.2 and Section 1.1.2, which identify the primary CEQA objective as to “restore, enhance, and create estuarine and associated habitats.” The project objectives are aimed at these restoration objectives, rather than specifically trash and water clean-up activities. Water quality conditions in Ballona Creek are addressed through the TMDL process. See EIS/EIR Section 3.9.2.2 for information about the existing surface water and sediment quality in Ballona Creek and Section 3.9.3.1 regarding Clean Water Act Section 303. Section 3.9.3.1 identifies the Ballona Estuary as an impaired waterway listed on the State’s 303(d) list and as subject to multiple TMDLs.
- O2-7 See General Response 3, *Alternatives* (Final EIR Section 2.2.3.1), which addresses multiple requests that the Lead Agencies consider a freshwater alternative.
- O2-8 The stated preference for an historically accurate restoration of the Ballona Wetlands is acknowledged; see General Response 3 (Final EIR Section 2.2.3). As described in Draft EIS/EIR Section 2.3.6, the historic freshwater water regime is no longer available to provide self-sustaining freshwater and brackish marsh. Nonetheless, the Project and Alternative 2 would allow Ballona Creek to reconnect with its historic floodplain while Alternative 3 would allow Ballona Creek to reconnect with a portion of its historic floodplain. Under Alternative 4, Ballona Creek would not reconnect with its historic floodplain. See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.6), which addresses multiple comments regarding the definition of “restoration.”
- O2-9 See Response O2-5 regarding the Project’s compliance with the Clean Water Act. As described in Draft EIS/EIR Section 2.3.6, the historic freshwater water regime is no longer available to make the freshwater and brackish marsh self-sustaining. Nonetheless, the Project and Alternative 2 would allow Ballona Creek to reconnect with its historic floodplain while Alternative 3 would allow Ballona Creek to reconnect with a portion of its historic floodplain. Under Alternative 4, Ballona Creek would not reconnect with its historic floodplain.
- O2-10 The commenter’s suggestion to keep the wetlands and uplands in their current locations would occur if Alternative 4 (No Action/No Project Alternative) were to be selected. Potential direct, indirect, and cumulative impacts to cultural resources, including Tribal cultural resources, are analyzed in Draft EIS/EIR Section 3.5. Potential direct, indirect, and cumulative impacts to biological resources are analyzed in Draft EIS/EIR Section 3.4. Both sections find that no significant unavoidable adverse impact would result to cultural or biological resources from any of the



- restoration alternatives. For responses to comments regarding Native American concerns, see Final EIR Section 2.3.4.
- O2-11 The commenter's opposition to the proposed alternatives is acknowledged and has been included in the record for the Project, where it may be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.
- O2-12 Identification of the elevations of the Ballona Creek "TMDL facility" and receipt of the GPS coordinates and suggested entry points for freshwater into the Ballona Reserve are acknowledged, but do not inform CDFW's consideration of the potential impacts of the proposed restoration. Final EIR Section 2.1.1, *Input Received*.
- O2-13 Receipt of this map of the Ballona Wetlands and Marina del Rey area is acknowledged. However, because it does not inform CDFW's consideration of the Draft EIS/EIR's analysis or conclusions, a detailed response has not been provided. See Final EIR Section 2.1.1, *Input Received*.
- O2-14 See General Response 8, *Public Participation* (Final EIR Section 2.2.8.1), regarding CDFW's decision not to further extend the comment period beyond 133 days.
- O2-15 The Draft EIS/EIR summarizes the Project in Section ES.4.1 and Section 1.2.2.1, and provides greater detail in Section 2.2 and in the preliminary design report provided in Draft EIS/EIR Appendix B1. Clarifications about the Project provided in responses may be found in Final EIR Section 2.2.2.3 (General Response 2, *Proposed Project*). See General Response 3, *Alternatives* (Final EIR Section 2.2.3.5), regarding the "preferred alternative."
- O2-16 See General Response 8, *Public Participation* (Final EIR Section 2.2.8.1), regarding CDFW's decision not to further extend the comment period beyond 133 days.
- O2-17 The use of the term "Project" for CEQA purposes does not any indicate or imply the Corps' endorsement of Alternative 1 (the Proposed Action). The Corps is a permitting agency and the Lead Agency for purposes of NEPA. The Corps did not develop the Project and will not have made a decision as to whether to approve a permit for any of the restoration alternatives until it has had an opportunity to consider all relevant evidence, including input provided by agencies and members of the public during the review process following posting of a Final EIS, and review process following the Section 408 permit technical review and decision. Similarly, while Alternative 1 is the Project as described in permit applications filed with the Corps, CDFW had not, as of the issuance of the Draft EIS/EIR, made a final determination as to which restoration alternative was environmentally superior. See General Response 3, *Alternatives* (Final EIR Section 2.2.3.6), for more information.
- O2-18 See General Response 3, *Alternatives* (Final EIR Section 2.2.3.1), which addresses multiple requests that CDFW consider a freshwater alternative.





- O2-19 See General Response 4, *Drains* (Final EIR Section 2.2.4), which addresses multiple comments received about baseline conditions in the context of the Coastal Commission's 2017 action about the drains.
- O2-20 The question of funding is beyond the scope of this Final EIR, which focuses on the potential environmental consequences of the Project and Alternatives 2, 3, and 4.
- O2-21 The image on the cover of the Draft EIS/EIR is an artistic rendition of an aerial view of the Project. See Draft EIS/EIR Section 3.2, Aesthetics, for visual simulations of how the Project and other alternatives would appear from publicly accessible vantage points. Figure 3.2-2, Figure 3.2-8, and Figure 3.2-9 demonstrate how perimeter berms and upland habitat created by the Project would look from publicly accessible viewing locations. As depicted by the visual simulations, although the Project would alter the topography of the Project Site, it would not block or impair any scenic vistas and would establish more natural looking features.
- O2-22 The commenter's belief that less than 2.8 to 3.5 million cubic yards of fill was deposited in the Ballona wetlands, as is reported in the Draft EIS/EIR, is acknowledged. Without evidence to review in support of the asserted position, CDFW does not have enough information to investigate further or to provide a more detailed response. Accordingly, CDFW respectfully disagrees with the assertion made in the comment.
- O2-23 Consideration has been given in designing the Project to avoid and consider Native American and Tribal cultural resources, including potential burial sites and a possible Gabrielino-Tongva village site within the Ballona Reserve. The analysis assumes that such resources are present. Potential impacts to cultural resources, including Tribal resources and burial sites, are analyzed in Draft EIS/EIR Section 3.5, *Cultural Resources*. Responses to Native American Community concerns are provided in Final EIR Section 2.3.4.
- O2-24 As discussed in Draft EIS/EIR Section 2.3.6, the historic Ballona Lagoon wetlands in the late 1800s included a larger area of freshwater, brackish, and tidally affected saltmarsh habitats that transitioned into a more alkaline/freshwater system approximately 1.5 miles inland from the coast.<sup>57</sup> The freshwater marsh habitat at the Ballona Reserve is highly disturbed and degraded. Potential direct and indirect impacts to wildlife are evaluated in Draft EIS/EIR Section 3.4.6; potential cumulative impacts are analyzed in Section 3.4.7. Although CDFW disagrees with the commenter's characterization of on-site conditions, the commenter's understanding is acknowledged and has been included in the formal record where it may be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.

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<sup>57</sup> Dark et al., 2011. Historical Ecology of the Ballona Creek Watershed. Southern California Coastal Water Research Project Technical Report No. 671.



- O2-25 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.6), which addresses multiple comments regarding the definition of “restoration.” See also General Response 3, *Alternatives* (Final EIR Section 2.2.3.1), addressing requests to consider a “freshwater alternative.” See Response O2-24 regarding on-site conditions in the late 1800s.
- O2-26 Information about the anticipated costs of implementing the proposed restoration is provided in Draft EIS/EIR Appendices B9 and B10.
- O2-27 Studies and other information relied upon in the drafting of the Draft EIS/EIR are identified in the references portion of each section of the document. Copies of Project-specific, site-specific reports are provided in the appendices. Consultants who contributed to the Draft EIS/EIR are identified in Draft EIS/EIR Section 5.2; subconsultants are identified in Section 5.3. See General Response 1, *Agency and Other Involvement* (Final EIR Section 2.2.1), regarding requests for additional information about the involvement of entities specified in comments received.
- O2-28 See Response O2-27. See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.3), regarding the proposed removal of SoCalGas Company infrastructure from within the Ballona Reserve. To the extent the comment implies some sort of conflict or undue influence by Playa Capital LLC, see General Response 1 (Final EIR Section 2.2.1.1).
- O2-29 See Response O2-21 regarding project impacts on area views.
- O2-30 See General Response 1, *Agency and Other Involvement* (Final EIR Section 2.2.1.1), regarding suggested conflicts of interest involving Playa Capital LLC.
- O2-31 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.3), regarding the existing location and proposed removal of SoCalGas Company infrastructure from within the Ballona Reserve.
- O2-32 See General Response 1, *Agency and Other Involvement* (Final EIR Section 2.2.1.1), regarding suggested conflicts of interest involving Playa Capital LLC.
- O2-33 See Response O2-26 regarding Project costs.
- O2-34 The commenter’s opinion that citizens seeking a non-mechanized restoration were not involved in the Science Advisory Committee (SAC) is acknowledged. For information about the SAC process relative to the Project, see General Response 3, *Alternatives* (Final EIR Section 2.2.3). Regarding the use of mechanized equipment versus restoration by hand, see General Response 3, *Alternatives* (Final EIR Section 2.2.3.4), which addresses Alternative 5 and other alternatives that were initially considered, but not carried forward for more detailed review.

- O2-35 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.6), which addresses multiple comments regarding the definition of “restoration.” See also General Response 3, *Alternatives* (Final EIR Section 2.2.3.1), addressing requests to consider a “freshwater alternative.” See Response O2-24 regarding historical on-site conditions.
- O2-36 Opposition to the restoration alternatives has been included in the formal record, where it will be available for consideration as part of CDFW’s decision-making process. See Final EIR Section 2.1.1, *Input Received*.
- O2-37 The commenter’s summary of the restoration alternatives is acknowledged. However, because this comment does not address the adequacy or accuracy of the EIR, a detailed response has not been provided. See Final EIR Section 2.1.1, *Input Received*.
- O2-38 See General Response 3, *Alternatives* (Final EIR Section 2.2.3.4), which addresses Alternatives 10 and 11, as well as other alternatives that were initially considered, but not carried forward for more detailed review.
- O2-39 The commenter’s sentiment that inappropriate conclusions were drawn in the Draft EIS/EIR is acknowledged. However, without more information about what conclusions the commenter is referring to, CDFW does not have enough information to provide a detailed response.
- O2-40 As described in Draft EIS/EIR Section 2.2.2.3, “A new three-level parking structure would be built on the site of the existing LACDBH-operated parking lot to consolidate parking at this location into a smaller footprint. Conceptual plans for this parking structure are provided in Draft EIS/EIR Figure 2-20 and Figure 2-21. Building a structure to replace the existing parking lot would reduce the footprint of the original parking area and increase the area available for reclamation as upland habitat in the Ballona Reserve by up to approximately 0.8 acres. The structure would be accessed from a driveway off Fiji Way with right-turn in, right-turn out access only.”
- The Traffic Study included in Draft EIS/EIR Appendix H addresses parking in the context of the Project and alternatives. Draft EIS/EIR Section 3.12 analyzes impacts of the Project’s proposed parking-related changes relative to traffic, and Section 3.4 analyzes them relative to birds and other wildlife. See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.4), which addresses multiple comments regarding parking facilities within the Ballona Reserve.
- O2-41 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.4), which addresses multiple comments regarding parking facilities within the Ballona Reserve. The request for information about parking practices at other ecological reserves is acknowledged, but would not inform the Lead Agencies’ consideration of the potential impacts of the proposed restoration. See Final EIR Section 2.1.1, *Input Received*.





- O2-42 The stated support of comments submitted on behalf of the Grassroots Coalition (Letter O11), the Sierra Club (Letter O23), and by Johntommy Rosas on behalf of the Tongva Ancestral Territorial Tribal Nation (Letter T2) is acknowledged. Responses to Letters O11 and O23 are provided in this Section 2.3.6; responses to Letter T2 are provided in Section 2.3.4.
- O2-43 Receipt of photographs of wildlife in the Ballona Reserve is acknowledged. The photographs have been included in the record, where they may be taken into consideration as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*. See General Response 4 (Final EIR Section 2.2.4), which addresses multiple comments received about these drains and existing (baseline) conditions.
- O2-44 Receipt of this photograph of the Ballona Wetlands from 1995 is acknowledged, but does not inform CDFW's consideration of the potential adequacy or accuracy of the EIR. See Final EIR Section 2.1.1, *Input Received*.
- O2-45 See General Response 5, *Biological Resources* (Final EIR Section 2.2.5.1), which addresses multiple comments received about the biological resources baseline.
- O2-46 See General Response 5, *Biological Resources* (Final EIR Section 2.2.5.1), which addresses multiple comments received about the biological resources baseline.
- O2-47 See General Response 5, *Biological Resources* (Final EIR Section 2.2.5.1), which addresses multiple comments received about the biological resources baseline.
- O2-48 See General Response 5, *Biological Resources* (Final EIR Section 2.2.5.1), which addresses multiple comments received about the biological resources baseline.
- O2-49 See General Response 5, *Biological Resources* (Final EIR Section 2.2.5.1), which addresses multiple comments received about the biological resources baseline.
- O2-50 Receipt of this photograph of photograph titled "(king snake caught in bulldozer) at Ballona Wetlands" is acknowledged. Of note, CDFW is not aware of any bulldozers doing work within the Ballona Reserve. Potential direct, indirect, and cumulative impacts to species (including snakes) of the proposed restoration are analyzed in Draft EIS Sections 3.4.6 and 3.4.7. See, e.g., the analysis of Impact 1-BIO-1h, which concludes that the Project would, unless mitigated, result in a substantial adverse impact on San Bernardino ring-necked snakes and would result in a less-than-significant impact related to direct habitat modification for this species. Mitigation measures are identified that would reduce the potential significance of this impact below established thresholds. No significant unavoidable impacts would result from restoration under any of the alternatives. Regarding the use of mechanized equipment versus restoration by hand, see General Response 3, *Alternatives* (Final EIR Section 2.2.3.4), which addresses Alternative 5 and other alternatives that were initially considered, but not carried forward for more detailed review.



- O2-51 The statement that non-native plants can be important to local wildlife is consistent with the design of the proposed restoration alternatives, none of which proposes to cut down the eucalyptus trees within the Ballona Reserve. Potential impacts to the eucalyptus grove in Area B with respect to suitable habitat for monarch butterflies, including potential impacts to the trees from saltwater intrusion, are addressed in Draft EIS/EIR Section 3.4.6. Each of the restoration alternatives would avoid direct impacts to the eucalyptus grove. Further, no indirect impacts to monarch butterfly habitat are anticipated since the eucalyptus grove is situated approximately 4 to 10 feet above the marsh plain and is not expected to be impacted by altered hydrological conditions. The grove is already adjacent to a tidal slough channel, so there would be little change from existing conditions. See General Response 5, *Biological Resources*, regarding invertebrates (Final EIR Section 2.2.5.2), which addresses multiple comments received about the biological resources baseline.
- O2-52 Receipt of this photograph of a desert cottontail is acknowledged, but does not inform CDFW's consideration of the potential impacts of the proposed restoration. See Final EIR Section 2.1.1, *Input Received*.
- O2-53 Receipt of this photograph of a skink is acknowledged, but does not inform CDFW's consideration of the potential impacts. See Final EIR Section 2.1.1, *Input Received*.
- O2-54 Receipt of this photograph of a checkered whiptail lizard is acknowledged, but does not inform CDFW's consideration of the potential impacts. See Final EIR Section 2.1.1, *Input Received*.
- O2-55 Receipt of this photograph of freshwater conditions from 2005 is acknowledged, but does not inform CDFW's consideration of the potential impacts. See Final EIR Section 2.1.1, *Input Received*. General Response 4, *Drains* (Final EIR Section 2.2.4), addresses multiple comments received about the drains and existing (baseline) conditions.
- O2-56 Receipt of this rendering is acknowledged. See Response O2-21 regarding visual simulations of the proposed restoration alternatives.
- O2-57 Receipt of this rendering is acknowledged. See Response O2-21 regarding visual simulations of the proposed restoration alternatives.
- O2-58 Receipt of this rendering is acknowledged. See Response O2-21 regarding visual simulations of the proposed restoration alternatives.
- O2-59 Receipt of these links to videos of public hearing testimony from Jeanette Vosburg, Dr. David DeLange, Dr. Margot Griswold, and Rex Frankel are acknowledged. Responses to oral testimony provided at the November 8 public hearing are provided in Section 2.3.8, *Responses to Public Hearing Comments*.



- O2-60 Receipt of these links to wildlife photographs taken by Mr. Coffin is acknowledged, but the photographs do not inform CDFW's consideration of the potential impacts of the proposed restoration. Nonetheless, the species pictured are consistent with the description in Draft EIS/EIR Section 3.4.2.2, *Environmental Setting*.
- O2-61 Receipt of these links to videos of Mr. Rosas proposing a restoration to 19th century wetlands is acknowledged. See General Response 3, *Alternatives* (Final EIR Section 2.2.3.4), which addresses Alternative 11 and alternatives that were initially considered, but not carried forward for more detailed review. See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.6), which addresses multiple comments regarding the definition of "restoration."
- O2-62 Two of the videos referenced in this comment were not available; therefore, CDFW does not have enough information to provide detailed responses to them. In the clip of Rex Frankel discussing the Draft EIS/EIR, Mr. Frankel suggests that a "freshwater alternative" should be considered, and asserted that restoration can be accomplished without the use of mechanized equipment. See General Response 3, *Alternatives* (Final EIR Section 2.2.3.1), which addresses multiple requests that the Lead Agencies consider a "freshwater alternative." Regarding the use of mechanized equipment versus restoration by hand, see Final EIR Section 2.2.3.3, which addresses Alternative 5 and other alternatives that were initially considered, but not carried forward for more detailed review.
- O2-63 Receipt of this link to Dr. Longcore's video "Ballona Natural/Original Wetlands" is acknowledged, but does not inform CDFW's consideration of the potential impacts of the proposed restoration. See Final EIR Section 2.1.1, *Input Received*. Other input from Dr. Longcore has been considered in the drafting of the Draft EIS/EIR. See, e.g., Appendix A.
- O2-64 Receipt of this link to the video, which includes Margot Griswold's comments about the nature of the restoration design, is acknowledged and has been included in the record, where it is available for consideration as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*. Regarding public participation in the process, see Draft EIS/EIR Section 1.5.3 (agency and public input), Section 1.9 (public comment on the Draft EIS/EIR), and Final EIR Section 1.4 (agency and public involvement). See also General Response 8, *Public Participation* (Final EIR Section 2.2.8), which responds to multiple comments received in this regard.
- O2-65 The height of the proposed levees would differ depending on the location within the Ballona Reserve. The height of the levees under the Project are described throughout Chapter 2 of the Draft EIS/EIR. Flood protection levees along Ballona Creek would have "elevations sloping from approximately elevation 20 feet NAVD 88 at Culver Boulevard down to approximately elevation 15 feet NAVD 88 at the western boundary of the Ballona Reserve." Some lower berms would be constructed within the Ballona Reserve for restoration purposes. For example, in Southeast Area B, an





- area of brackish marsh would be established and a low berm (6.8 feet NAVD 88) would be constructed to retain freshwater flows. Additionally, around the salt pans, low perimeter berms of approximately 3.5 feet would be constructed so that water would just slightly overflow the berms into the spillways. Within North and South Area C, “soil would be placed up to an elevation between 40 and 55 feet NAVD 88 (or a height of up to approximately 15 to 30 feet above existing grade).”
- O2-66 Receipt of this video tour of Marina del Rey and the Ballona Reserve is acknowledged, but does not inform CDFW’s consideration of the potential impacts of the proposed restoration. See Final EIR Section 2.1.1, *Input Received*. As explained in Draft EIS/EIR Section 3.2, the environmental analysis evaluates how the Project and alternatives would appear from publicly accessible vantage points: a flyover does not inform the analysis of potential impacts for purposes of CEQA.
- O2-67 Receipt this link to PowerPoint presentations about the Ballona Reserve from Patricia McPherson (a total of 161 items, as described on the website) is acknowledged. However, because this comment does not address the adequacy or accuracy of the EIR, it has been included in the record, where it may be considered as part of the agencies’ overall decision-making processes rather than specifically as part of the environmental review process under CEQA.
- O2-68 Receipt of this photograph of a burrowing owl in ice plant is acknowledged, but does not inform CDFW’s consideration of the potential impacts. See Final EIR Section 2.1.1, *Input Received*. Regarding burrowing owl, see General Response 5 (Final EIR Section 2.2.5.7).
- O2-69 Receipt of this rendering is acknowledged. See Response O2-21 regarding visual simulations of the proposed restoration alternatives.
- O2-70 Receipt of this photograph of a burrowing owl in ice plant is acknowledged, but does not inform the Lead Agencies’ consideration of the potential impacts. See Final EIR Section 2.1.1, *Input Received*. Regarding burrowing owl, see General Response 5 (Final EIR Section 2.2.5.7).
- O2-71 Receipt of this list of the Friend of Ballona Wetlands Board of Directors is acknowledged, but does not inform CDFW’s consideration of the potential impacts of the proposed restoration. See Final EIR Section 2.1.1, *Input Received*.
- O2-72 Receipt of this photograph is acknowledged, but does not inform CDFW’s consideration of potential impacts. See Final EIR Section 2.1.1, *Input Received*. To see information provided in response to multiple comments received about reptiles, see General Response 5 (Final EIR Section 2.2.5.3).
- O2-73 Receipt of these photographs is acknowledged, but does not inform CDFW’s consideration of potential impacts. See Final EIR Section 2.1.1, *Input Received*. To see information provided in response to multiple comments received regarding birds



and the biological resources baseline, see General Response 5 (Final EIR Section 2.2.5.1).

- O2-74 See General Response 8, *Public Participation* (Final EIR Section 2.2.8.1) regarding the Lead Agencies' decision not to further extend the comment period based on the availability for review of the reference materials relied upon in the drafting of the Draft EIS/EIR.
- O2-75 See General Response 8, *Public Participation* (Final EIR Section 2.2.8.1) regarding the Lead Agencies' decision not to further extend the comment period beyond 133 days.
- O2-76 See General Response 7, *Requests for Recirculation* (Final EIR Section 2.2.7), which addresses multiple comments received requesting recirculation.
- O2-77 See General Response 8, *Public Participation* (Final EIR Section 2.2.8.1), regarding the Lead Agencies' decision not to further extend the comment period beyond 133 days.
- O2-78 To be clear, no additional sections were added to the Draft EIS/EIR after its issuance. As explained in General Response 8, *Public Participation* (Final EIR Section 2.2.8.1), a link to reference materials relied upon in the drafting of the Draft EIS/EIR was added to the website as a courtesy.
- O2-79 See General Response 8, *Public Participation* (Final EIR Section 2.2.8.1), regarding the Lead Agencies' decision not to further extend the comment period beyond 133 days.
- O2-80 See Response O2-78, explaining that no "problem" occurred. This comment provides no facts or other evidence that would support any need to recirculate the Draft EIS/EIR. See General Response 7, *Requests for Recirculation* (Final EIR Section 2.2.7), for more information.
- O2-81 See Response O2-15, which addresses this same comment.
- O2-82 See Response O2-16, which addresses this same comment.
- O2-83 See Response O2-17, which addresses this same comment.
- O2-84 See Response O2-18, which addresses this same comment.
- O2-85 See Response O2-19, which addresses this same comment.
- O2-86 As explained in Draft EIS/EIR Section ES.3.1, the two-fold purposes of the Project are to: 1. Restore ecological functions and services within the Ballona Reserve, in part by increasing tidal influence to achieve predominantly estuarine wetland conditions; and 2. Ensure any alteration/modification to the LACDA project

components within the Ballona Reserve maintain the authorized LACDA project levels of flood risk management. This statement of the overall project purpose is consistent with the CEQA project objectives set forth in Draft EIS/EIR Section ES.3.2. See also Draft EIS/EIR Section 1.1, which restates the purpose and need/project objectives. CDFW disagrees with any suggestion that the existing LACDA project facilities, which manage flood risk in the greater area that is inclusive of Playa Vista, particularly or specifically benefit the Playa Vista development. See General Response 1, *Agency and Other Involvement* (Final EIR Section 2.2.1.1), regarding Playa Capital LLC.

- O2-87 See Response O2-21, which addresses this same comment.
- O2-88 See Response O2-22, which addresses this same comment.
- O2-89 See Response O2-23, which addresses this same comment.
- O2-90 See Response O2-24, which addresses this same comment.
- O2-91 See Response O2-25, which addresses this same comment.
- O2-92 See Response O2-26, which addresses this same comment.
- O2-93 See Response O2-27, which addresses this same comment.
- O2-94 See Response O2-28, which addresses this same comment.
- O2-95 See Response O2-29, which addresses this same comment.
- O2-96 See Response O2-30, which addresses this same comment.
- O2-97 See Response O2-31, which addresses this same comment.
- O2-98 See Response O2-32, which addresses this same comment.
- O2-99 See Response O2-33, which addresses this same comment.
- O2-100 See Response O2-34, which addresses this same comment.
- O2-101 See Response O2-35, which addresses this same comment.
- O2-102 See Response O2-36, which addresses this same comment.
- O2-103 See Response O2-37, which addresses this same comment.
- O2-104 See Response O2-38, which addresses this same comment. See also General Response 3, *Alternatives* (Final EIR Section 2.2.3.4), which addresses alternatives that were initially considered, but not carried forward for more detailed review.





O2-105 Area A as identified in the Draft EIS/EIR is approximately 163 acres. CDFW was not able to identify anywhere in the Draft EIS/EIR that claimed Area A to be 139 acres.

O2-106 See Response O2-22, which addresses this same comment.

O2-107 The commenter's concern that certain graphics are not accurate is acknowledged. However, without more specific information regarding which graphics or figures the commenter believes are incorrect, CDFW is unable to provide a detailed response.

Potential direct, indirect, and cumulative impacts to cultural resources including tribal resources, are analyzed in Draft EIS/EIR Section 3.5. This analysis is supported by the research and documentation cited in Section 3.5, including Project-specific, site-specific studies within the Project Site. See, e.g., Bever and Chmiel, 2011;<sup>58</sup> Daly, 2015;<sup>59</sup> Douglas et al., 2015;<sup>60</sup> Lockwood, 2015;<sup>61</sup> and Vader and Bever, 2016.<sup>62</sup> Sensitive or confidential information acquired during consultations and other research, planning, and stewardship activities pursuant to project development and environmental analysis identified specific locations and other data about the character and nature of cultural resources within the Ballona Reserve. Because the reports cited contain such information, they are protected as confidential and so have not been made available for review by members of the general public.

O2-108 The commenter's concern regarding the accuracy of the amount of fill depicted on figures is acknowledged; however, there is no Figure 3A in the Draft EIS/EIR. Without more specific information as to which figures are the subject of the commenter's concern, CDFW is unable to provide a detailed response.

O2-109 Questions about the source or timing of the placement of the fill that exists under current (baseline) conditions are acknowledged, but do not inform CDFW's consideration of the potential impacts of the proposed restoration. See Final EIR Section 2.1.1, *Input Received*. See Draft EIS/EIR Section 1.8.5, which explains the analytical baseline used for purposes of NEPA and CEQA.

O2-110 It is not clear what document is the subject of the commenter's concern. Without more specific information about the document that prompted the comment, CDFW is

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<sup>58</sup> Bever, Michael R. and Karolina A. Chmiel, 2011. *Draft Archaeological Survey Report for the Ballona Wetlands Ecological Reserve Restoration Project, City of Los Angeles, Los Angeles County, California*. Prepared for the California State Department of Fish and Game and the California State Coastal Conservancy. ICF International. San Diego, California.

<sup>59</sup> Daly, Pam, 2015. *Historical Resources Evaluation Report of the Ballona Wetlands Ecological Reserve Wetlands Project*. Prepared for BonTerra Psomas. Daly and Associates. Riverside, California.

<sup>60</sup> Douglas, Diane, Pamela Daly, David M. Smith, Mark Roeder, and Patrick O. Maxon, 2015. *Phase I Cultural Resources Assessment – Ballona Wetlands Ecological Reserve Restoration Project*. Prepared for the California State Coastal Conservancy and the California State Department of Fish and Wildlife. BonTerra Psomas. Santa Ana, California.

<sup>61</sup> Lockwood, Christopher, 2015. *Ballona Wetlands Ecological Reserve Wetlands Restoration Project: Geoarchaeological Review*. Prepared for the California State Coastal Conservancy.

<sup>62</sup> Vader, Michael and Michael R. Bever, 2016. *Extended Phase I and Phase II Archaeological Testing Report, Ballona Wetlands Ecological Reserve Restoration Project, Los Angeles, California*. Prepared for the California State Coastal Conservancy. ESA. Los Angeles, California.



- unable to provide a detailed response. See, generally, Draft EIS/EIR Section 1.8.5, which explains the analytical baseline used in the Draft EIS/EIR.
- O2-111 It is not clear what document is the subject of the commenter's concern. Without more specific information about what prompted the comment, CDFW is unable to provide a detailed response. Nonetheless, consideration has been given in designing the Project to avoid and respect archaeological, Native American and Tribal resources, including potential burial sites and a possible Gabrielino-Tongva village site within the Ballona Reserve. Rather than conduct invasive subsurface testing, the analysis assumes that such resources are present. Potential impacts to cultural resources, including archaeological and Tribal resources and burial sites, are analyzed in Draft EIS/EIR Section 3.5, *Cultural Resources*. Section 3.5 also described Native American outreach and consultation conducted for the Project. Responses to Native American concerns are provided in Final EIR Section 2.3.4. Draft EIS/EIR Section 3.5 addresses all archaeological resources within the Project Site, including both those determined eligible for the California Register of Historic Resources and National Register of Historic Places, and those determined not eligible. Further, input provided specifically by Mr. Rosas has been evaluated as part of this process. See, e.g., Draft EIS/EIR Section 3.5.5, which summarizes input received by CDFW and (separately) by the Corps during consultation with Mr. Rosas.
- O2-112 The commenter's concern that there may be an inconsistency with the representation of the ball fields in a figure is acknowledged. However, it is not clear what document is the subject of the commenter's concern: there is no page 10 in the Draft EIS/EIR. Without more specific information about what prompted the comment, CDFW is unable to provide a detailed response.
- O2-113 The commenter's concern that there may be an inconsistency in page numbering is acknowledged. However, it is not clear what document is the subject of the commenter's concern: there is no page 15 in the Draft EIS/EIR. Without more information as to where in the document the commenter believes this inconsistency occurred, CDFW is unable to provide a detailed response.
- O2-114 The commenter's concern that there may be an inconsistency in the representation of the amount of fill within an area of the Ballona Reserve is acknowledged. However, it is not clear what document is the subject of the commenter's concern: there is no page 10 in the Draft EIS/EIR. Without more information as to where in the document the commenter believes this inconsistency occurred, CDFW is unable to provide a detailed response. See, generally, Draft EIS/EIR Section 1.8.5, which explains the analytical baseline used in the Draft EIS/EIR.
- O2-115 The commenter's opinion that no amount of fill was deposited in Area B is acknowledged. However, without more information as to why the commenter believes that there is no remnant fill in Area B or why the commenter believes the graphics or figures are inconsistent, CDFW does not have enough information to



- provide a detailed response. See, generally, Draft EIS/EIR Section 1.8.5, which explains the analytical baseline used in the Draft EIS/EIR. Grading plans for the Project and alternatives are discussed in Draft EIS/EIR Section 2.2.
- O2-116 See Response O2-111 regarding Tribal consultation and coordination in evaluating potential impacts of the restoration alternatives.
- O2-117 It is not clear what document is the subject of the commenter's concern: there are no page numbers or graphics in the Draft EIS/EIR that correspond with what is identified in this comment. Without more information, CDFW is unable to provide a detailed response.
- O2-118 See Responses O2-39, O2-40, and O2-41, regarding the traffic study included in Draft EIS/EIR Appendix H and the analysis of parking and potential avian impacts.
- O2-119 See Response O2-42 and Response O2-43, which address these same comments.
- O2-120 See Response O2-71, which addresses this same list.
- O2-121 See General Response 3, *Alternatives* (Final EIR Section 2.2.3.4), which addresses Alternatives 11 and 12, as well as other potential alternatives that were initially considered, but not carried forward for more detailed review. Receipt of the comparison chart prepared by the commenter is acknowledged and has been included in the record, where it will be available for consideration as part of CDFW's decision-making process.
- O2-122 The commenter's summary introduction of concerns with the Draft EIS/EIR is acknowledged; each is addressed below in the context of the comment where it is raised with sufficient detail to inform a response.
- O2-123 See General Response 5, *Biological Resources* (Final EIR Section 2.2.5.1), which discusses the environmental setting and conditions relied upon as the analytical baseline for the analysis of biological resources in Draft EIS/EIR Section 3.4. See also General Response 1, *Agency and Other Involvement* (Final EIR Section 2.2.1.1), regarding suggestions of conflicts of interest with Playa Capital LLC.
- O2-124 See Response O2-123. This quotation from a 1991 letter does not inform CDFW's consideration of the adequacy or accuracy of the analysis in the EIR. See Final EIR Section 2.1.1, *Input Received*.
- O2-125 See General Response 5, *Biological Resources*, regarding Belding's savannah sparrow (Final EIR Section 2.2.5.4), which addresses multiple comments received about this species.
- O2-126 The California Rapid Assessment Method (CRAM) was developed by the California Wetland Monitoring Workgroup (CWMW) as a field-based diagnostic tool that can



- be used to cost effectively monitor the condition of streams and wetlands throughout California. CRAM supports the State's Wetland and Riparian Area Monitoring Plan (WRAMP) as developed by the CWMW. The protocols used for CRAM were used to assess the condition of wetlands within the Ballona Wetlands Ecological Reserve in 2012 and 2014, with a primary objective similar to those cited directly from the CRAM User's Manual (CWMW 2013): "... to provide rapid, scientifically defensible, standardized, cost-effective assessments of the status and trends in the condition of wetlands and the performance of related policies, programs and projects throughout California." The specific survey goal of this program was to use Level-2 estuarine and depressional CRAM data to provide condition assessments of the wetland habitat areas within the Ballona Reserve.
- O2-127 CDFW disagrees with the suggestion in this comment that the CRAM assessment overstated the poor conditions of wetlands within the Ballona Reserve because the reference sites were high-quality tidal wetlands. To the contrary, the CRAM assessment accurately evaluated habitat conditions in the Ballona Reserve against conditions at non-impacted wetlands in the regional vicinity. Weighing the commenter's unsupported opinion relative to the evidence cited in the Draft EIS/EIR and the record, CDFW chooses to rely on the evidence.
- O2-128 The description of fill thickness described in Draft EIS/EIR Figure 3.5-2 is based on a site specific study, the Ballona Wetlands Ecological Reserve Wetlands Restoration Project: Geoarchaeological Review, which was prepared for the California State Coastal Conservancy in 2015. The description of the site soils including the fill materials at the site in Draft EIS/EIR Figure 3.6-1 is based on the Geotechnical Investigation conducted for the Project in 2013. This geotechnical investigation was also a site specific study of the existing subsurface conditions that was prepared by a licensed geotechnical engineering firm and included a total of 25 rotary wash borings, 31 cone penetration tests (CPT), 8 hollow stem auger borings and 1 hand auger boring. Therefore, the characterization of the site's subsurface conditions is based on the available site-specific data prepared by professionals. The opinion expressed in the comment is acknowledged, but unsupported. Accordingly, CDFW does not have enough information to reevaluate the analysis based on this comment.
- O2-129 See Draft EIS/EIR Section 2.3.7, which explains that, although the Ballona Wetlands historically transitioned into a more alkaline/freshwater system 1.5 miles inland from the coast, the system also included tidally affected saltmarsh and brackish habitats. Hence, a tidally influenced brackish water ecosystem was historically present at the Ballona Reserve. See also Response I23-4, regarding the historical presence of a tidally influenced brackish water ecosystem at the Ballona Reserve.
- O2-130 See Response O2-128 regarding the existence of fill within the Ballona Reserve.
- O2-131 See General Response 6, *Hydrology and Water Quality* (Final EIR Section 2.2.6.1), for more information about the relationship between the proposed restoration and the



- TMDL. See also Draft EIS/EIR Section ES.1, which explains that the Ballona Creek channel and levee system are features of the Federally authorized Los Angeles County Drainage Area (LACDA) project; they are not primarily a water quality control feature.
- O2-132 See General Response 4, *Drains* (Final EIR Section 2.2.4), which addresses multiple comments received about the drains that were subject to the Coastal Commission's action.
- O2-133 The potential increase in the extent of tidal inundation and resultant increase in saltwater intrusion into the groundwater is discussed in Draft EIS/EIR Section 3.9.6 in the context of Impact 1-WQ-2. See Response AL9-7 for additional discussion about baseline conditions and potential impacts related to saltwater intrusion.
- O2-134 The precise locations of archaeological resources cannot be disclosed due to federal and state laws regarding confidentiality. However, as discussed in response O2-135, all indicated resources have been addressed in the Draft EIS/EIR. As stated in Draft EIS/EIR Section 3.5, CA-LAN-54 is the only prehistoric archaeological resource within the Project Site that has been determined to be significant according to state law, and impacts to the resource will be avoided.
- O2-135 Each of the nine resources, as well as additional resources discovered subsequently to the referenced EIR, was identified and assessed as part of the cultural resources investigations conducted for the Project (Bever and Chmiel, 2011; Douglas et al., 2015; Vader and Bever, 2016), and as documented in the Draft EIS/EIR. Some of the cited temporary SR numbers since have been replaced with permanent trinomials and primary site numbers assigned by the California Historical Resources Information System. SR 2 (CA-LAN-1970H) and SR 7 (CA-LAN-4716H) are historic-period resources consisting of infrastructure and refuse deposits. Both were evaluated as not eligible for the National Register of Historic Places and California Register of Historical Resources. Neither would be considered a Tongva resource. CA-LAN-1698, SR 8, the isolated find recorded at the same location, SR-9, SR-10, SR-11, and the other noted isolated find west of SR 7 consist of shell scatters that have since been determined to represent naturally occurring shell derived from dredging of Marina del Rey. This shell was then redeposited within the Project Site. None represents an archaeological resource. This is consistent with the fact that SR numbers were not replaced with permanent trinomials and primary site numbers.
- O2-136 Receipt of this link to the Play Vista project's administrative record is acknowledged, but without an indication of about how it relates to CDFW's analysis of potential impacts of the proposed restoration within the Ballona Reserve, the administrative record from a different project does not inform CDFW's consideration. See Final EIR Section 2.1.1, *Input Received*.
- O2-137 The statement in the Draft EIS/EIR refers to resources that have been determined eligible for the National Register of Historic Places or California Register of

- Historical Resources, or have not been evaluated for inclusion in these registers, as discussed in Draft EIS/EIR Section 3.5, *Cultural Resources*.
- O2-138 See Response I37-3 regarding public access to the Ballona Reserve under existing (baseline) conditions.
- O2-139 See General Response 3, *Alternatives* (Final EIR Section 2.2.3), which addresses multiple questions about the range of alternatives analyzed in the Draft EIS/EIR as well as how it was developed.
- O2-140 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.6), which addresses multiple comments regarding the definition of “restoration.”
- O2-141 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.6), which addresses multiple comments regarding the definition of “restoration.”
- O2-142 Offsite soil export is discussed in Draft EIS/EIR Section 2.2.2.5, *Alternative 1: Implementation and Restoration Process*, under the subheading “Offsite Soil Export.” Off-site soil export methods for Alternatives 2 and 3 would be similar to those for the Project. The Port of Los Angeles is not a project proponent (see Draft EIS/EIR Section ES.2.5, *Project Proponents*). Although a majority of the fill excavated from the Project Site would be used onsite, some amount of soil export to either upland disposal sites or ocean disposal sites would be necessary to achieve the restoration and flood risk management objectives outlined in Draft EIS/EIR Section ES.3, *Purpose and Need/Project Objectives*. The Project objectives do not include “attracting mitigation funding from fillers of deep ocean water habitats” as claimed by the commenter.
- O2-143 Because the requested minutes or notes would not inform CDFW’s consideration of the potential impacts of the proposed restoration, they have not been provided in response to this comment. See Final EIR Section 2.1.1, *Input Received*.
- O2-144 All alternatives were evaluated using identical screening criteria described in Draft EIS/EIR Section 2.1.3, *Screening Criteria for Alternatives to the Proposed Action*. The commenter is correct that the Draft EIS/EIR discusses how habitats in Alternative 2 would adapt to sea-level rise: While the salt pan and adjacent salt marsh habitats would permanently flood by 2050, the larger tide range that would be created by Alternative 2 would allow tidal salt marsh to be maintained through 2070. However, the section cited by the commenter discusses how Alternative 5 would adapt to sea-level rise. As discussed in Draft EIS/EIR Section 2.3.1, under Alternative 5, sea-level rise would cause the tide gates to be permanently closed and the tidal wetlands would be cut off from the estuary. As a result, these habitats would be converted to mudflat or subtidal habitat. Therefore, Alternative 2 and Alternative 5 would adapt differently to sea-level rise. While Alternative 2 would provide some level of adaptation to sea-level rise preserving a larger variety of habitat types for a longer period of time, Alternative 5 would not provide the same benefit. Under





Alternative 5, all habitats would be converted to mudflat or subtidal habitat with rising sea levels.

Pumping freshwater into the wetlands is not proposed as part of Alternative 5. As described in Draft EIS/EIR Section 2.3.1, “Without large-scale earthmoving, existing levees could not be moved away from the creek and the creek would not be reconnected to its floodplain in any meaningful way; wetland restoration efforts (increased size or improved quality) would be limited because substantial freshwater or tidal influence could not be introduced into Area A or Area B; the elevation of Area A could not be lowered to restore wetlands, removing deposited fill; and the Ballona Reserve property would remain fragmented and isolated by Ballona Creek, berms, roads, and levees.” Therefore, habitat improvement under this alternative would be limited with limited hydrological influences.

The potential for habitats in the Ballona Wetlands Ecological Reserve to be restored under Alternative 5 is speculative as attempting non-native plant removal without the use of mechanical equipment is ineffective due to the extensive amount of biomass and seed dispersal. Therefore, it is highly unlikely that hand restoration and non-native plant removal methods could accomplish restoration at a rate at which native habitat could be reestablished.

The commenter is correct: Resiliency to sea-level rise is not specifically called out as a “basic project objective.” However, as discussed under screening criteria c in Draft EIS/EIR Section 2.3.1, Alternative 5 would not meet the most basic objectives of Alternative 1. See also General Response 3, *Alternatives* (Final EIR Section 2.2.3.4), which addresses Alternative 5 and other alternatives that were initially considered, but not carried forward for more detailed review.

O2-145 See General Response 6, *Sea-Level Rise* (Final EIR Section 2.2.6.2), which addresses multiple comments received regarding flood protection and wetland sustainability with sea-level rise under existing and project conditions.

O2-146 See Draft EIS/EIR Figure 2-1, Alternative 1, Phase 2: Proposed Habitats, which demonstrates the habitats that would be restored or rehabilitated after the implementation of Phase 2 of Alternative 1. See also Figure 2-4, Alternative 1, Phase 1: Proposed Habitats, which depicts the habitat types that would be restored or rehabilitated after the implementation of Phase 2 of Alternative 1. See Draft EIS/EIR Appendix B9, *Restoration Projects Cost Comparison*.

As described in Draft EIS/EIR Section ES.1, while the wetlands ecosystem once supported a wide variety of aquatic resources, the dumping of fill into the wetlands during the 1950s transformed the wetlands into upland and degraded wetlands. Therefore, the Project proposed to conduct a large-scale restoration to restore and enhance habitats and wetland functions within the Ballona Reserve that would be self-sustaining. To accomplish these restoration goals, the fill deposited in the wetlands must be excavated to reconnect Ballona Creek with its historic floodplain.



Additionally, the fill that is excavated would be used to create upland habitats, transition zones, and perimeter berms and levees which would allow the habitats within the Ballona Reserve to move upslope and adapt to rising sea levels. As shown in Table ES.2, the total amount of habitat within the Ballona Reserve would remain the same as existing conditions and the amount of marsh and salt pan would be increase under the restoration alternatives.

O2-147 As with the other alternative evaluated, Alternative 6 was evaluated using the screening criteria described in Draft EIS/EIR Section 2.1.3. One of the screening criteria is criterion b), which asks if the alternative would meet the purpose and need and overall project purpose. Draft EIS/EIR Section ES.3, *Purpose and Need/Project Objectives*, describes the project purpose and objectives. Under Draft EIS/EIR Section ES.3.2, *CEQA Project Objectives*, Objective 1 is to “Restore, enhance, and create estuarine and associated habitats.” All potential alternatives were screened using the same screening criteria. Therefore, using this criterion to evaluate Alternative 6 is not unfair, as suggested by the commenter. See also General Response 3, *Alternatives* (Final EIR Section 2.2.3.2), which addresses multiple questions about the range of alternatives analyzed in the Draft EIS/EIR including the objectives used to evaluate potential alternatives. Additionally, see General Response 3, *Alternatives* (Final EIR Section 2.2.3.1), which addresses multiple requests that CDFW consider a “freshwater alternative” and discusses the historic ecology of the Project Site.

O2-148 General Response 3, *Alternatives* (Final EIR Section 2.2.3.3), which addresses Alternative 10, Alternative 11, and other alternatives that were initially considered, but not carried forward for more detailed review. Alternative 10 was not carried forward for full consideration, amongst other reasons, because it was determined it could not meet the most basic project objectives of maintaining or improving flood protection and storm water management, and would require a highly managed system. CEQA Objective 1(b) guides a project that is self-sustaining and minimizes the need for active management while still maximizing habitat goals. Adding additional tide gates and pumps to move water around in a highly unnatural manner does not achieve this important CEQA objective and creates a highly managed system instead of a more passive, more natural, system that will play a larger role in defining the functions of the Ballona Reserve.

Alternative 11 would require either the acquisition of developed property and displacement of existing land uses outside the Ballona Reserve or the development of a highly managed tide gate system to mimic a seasonally closed estuary to recreate a bar-built estuarine system similar to what existed after the Los Angeles River changed its course but prior to the channelization of Ballona Creek. Both of these methods would be more environmentally damaging than the Project and would not avoid or substantially lessen any of the Project’s significant impacts. To the contrary, it could create a scenario similar to what is described above where a highly managed system is created instead of a more passive and natural system.



- O2-149 Alternative 10 was evaluated using the screening criteria described in Draft EIS/EIR Section 2.1.3. One of the screening criteria, criterion b), asks if the alternative would meet the purpose and need and overall project purpose. Draft EIS/EIR Section ES.3 and Section 1.1 both describe the overall project purpose under NEPA and project objectives under CEQA. CEQA Project Objective 1b) is to restore, enhance, and create estuarine and associated habitats, “That are self-sustaining by allowing for adaptation to sea-level rise, minimizing the need for active management, and reducing impacts of human activities and invasive species through the provision of large, contiguous areas of diverse intertidal wetland habitats with wide transition and buffer areas.” All potential alternatives were screened using the same screening criteria. See General Response 3, *Alternatives* (Final EIR Section 2.2.3.4), which addresses Alternative 10 and other alternatives that were initially considered, but not carried forward for more detailed review.
- O2-150 See General Response 3, *Alternatives* (Final EIR Section 2.2.3.4), which addresses Alternative 10 and other alternatives that were initially considered, but not carried forward for more detailed review. Alternative 10 contemplates a highly manipulated hydrologic regime, but “also include[s] suggestions for raising at least portions of roadways throughout the Ballona Reserve.” Restudying Alternative 10 without “road-raising” would yield the same determination to not carry this alternative forward for further analysis.
- O2-151 As described in Draft EIS/EIR Section 2.3.7, under Screening Criterion d), the potential cost of Alternative 11 was considered carefully during the screening process, “Queries of all available properties in Marina del Rey and Playa del Rey conducted January 19, 2017, and June 14, 2017, identified five properties sufficiently close enough to the area that would be needed to implement Alternative 11 to provide meaningful data.” Only properties that were close enough to the Ballona Reserve were considered and evaluated. This analysis revealed that all properties within this range were prohibitively expensive to acquire.
- Because Alternative 11 was not carried forward for more detailed review, the Draft EIS/EIR does not provide a detailed comparison of potential impacts between Alternative 11 and Alternative 1. The direct, indirect, and cumulative impacts of Alternative 1 are analyzed in Draft EIS/EIR EIS/EIR Section 3.5.
- O2-152 See General Response 3, *Alternatives* (Final EIR Section 2.2.3.6), which addresses multiple requests that CDFW consider a “freshwater alternative.”
- O2-153 See General Response 3, *Alternatives* (Final EIR Section 2.2.3.6), which addresses multiple requests that CDFW consider a “freshwater alternative.”
- O2-154 The authors of BEEP’s restoration vision are acknowledged, but this information does not inform CDFW’s consideration of the potential impacts of the Project and alternatives evaluated in detail in the Draft EIS/EIR. See Final EIR Section 2.1.1, *Input Received*.



- O2-155 Data, information, and ideas provided during the scoping process were considered in the development of the Draft EIS/EIR. This cross-reference to a specific portion of Draft EIS/EIR Appendix A does not further inform the environmental review process under CEQA.
- O2-156 This characterization of Alternatives 10 and 11 is acknowledged. See General Response 3, *Alternatives* (Final EIR Section 2.2.3.4), which addresses alternatives that were initially considered, but not carried forward for more detailed review.
- O2-157 See General Response 3, *Alternatives* (Final EIR Section 2.2.3), which addresses multiple requests that CDFW consider a “freshwater alternative” and which explains why alternatives that were initially considered, were not carried forward for more detailed review.
- O2-158 CDFW respectfully disagrees with the commenter as to the outcome of the proposed restoration. Having evaluated the restoration proposal submitted during scoping, CDFW has elected to rely (for the reasons explained) instead on the scientific evidence cited in Draft EIS/EIR Section 3.4 before concluding that the Project would provide the greatest long-term benefit to species and habitats within the Ballona Reserve. See General Response 5, *Biological Resources* (Final EIR Section 2.2.5), which addresses multiple comments received regarding impacts to biological resources within the Reserve. See also Draft EIS/EIR Figure 2-1. Alternative 1, Phase 2: Proposed Habitats, which demonstrates that the implementation of Alternative 1 Phase 2 would result in restored salt marsh, salt pan, riparian zones, non-tidal marsh, non-tidal salt marsh, and upland habitats.
- O2-159 See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.6), which addresses multiple comments regarding the definition of “restoration.” See also General Response 3, *Alternatives* (Final EIR Section 2.2.3.3), which addresses multiple comments received regarding the historical accuracy of the Project and restoration alternatives analyzed in detail in the Draft EIS/EIR.
- O2-160 As described in Draft EIS/EIR Section 2.3.7, “In contrast to historic conditions, the Ballona Creek channel was designed to have a permanent opening between Ballona Creek and the ocean and, as a result, the historic water regime is no longer available to make large amounts of freshwater and brackish marsh self-sustaining.” See Draft EIS/EIR Section 3.9.6, which discusses potential impacts from the Project due to polluted runoff or storm water drainage systems. As described in Impact 1-WQ-1a, Mitigation Measure WQ-1a-i: Monitoring and Adaptive Management Plan (MAMP) has been developed to address any water quality issues created by the Project.
- O2-161 See Responses O2-134 and O2-135.
- O2-162 See Response O2-21.



- O2-163 See Response I37-3 regarding public access to the Ballona Reserve under existing (baseline) conditions.
- O2-164 See General Response 3, *Alternatives* (Final EIR Section 2.2.3.4), which addresses alternatives that were initially considered, but not carried forward for more detailed review. Nonetheless, the commenter's preference for a proposal that does not meet the screening criteria is acknowledged and has been included in the formal record, where it will be available for consideration as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.
- O2-165 Receipt of this link to the Ballona Wetlands Interim Stewardship and Access Management Plan from June 2005 is acknowledged. However, because this comment does not address the adequacy or accuracy of the EIR or the merits of the alternatives, it may be considered as part of CDFW's overall decision-making process rather than specifically as part of the CEQA process.
- O2-166 See General Response 6, *Sea-Level Rise* (Final EIR Section 2.2.6.2), which addresses multiple comments received regarding wetland sustainability with sea-level rise under existing and Project conditions.
- O2-167 See General Response 6, *Sea-Level Rise* (Final EIR Section 2.2.6.2), which addresses multiple comments received regarding wetland sustainability with sea-level rise under existing and project conditions; and General Response 3, *Alternatives* (Final EIR Section 2.2.3.4), which addresses alternatives that were initially considered, but not carried forward for more detailed review. The commenter's preference for a proposal that does not meet the screening criteria is acknowledged and has been included in the formal record, where it will be available for consideration as part of CDFW's decision-making process.
- O2-168 Receipt of this duplicate copy of comments submitted during the scoping process and included in Draft EIS/EIR Appendix A is acknowledged. See Final EIR Section 2.1.1, *Input Received*, regarding comments that do not warrant further agency response under CEQA.
- O2-169 See Response O2-165 regarding the 2005, Ballona Wetlands Interim Stewardship and Access Management Plan.
- O2-170 See Response O2-134 and Response O2-135.
- O2-171 Receipt of these copies of blog posts from SaveAllofBallona.org is acknowledged. Regarding the Santa Monica Mountains Conservancy's position on the proposed restoration appears out-of-date. Input provided by the Santa Monica Mountains Conservancy on the Draft EIS/EIR (Letter AL8) expresses support for the proposed public access improvements and, as of the date of the letter, no position with respect to the other Project components. Responses to oral comments made at the comment meeting are provided in Draft EIS/EIR Section 2.3.8.



- O2-172 Receipt of this copy of correspondence from 1991 is acknowledged. However, because this comment does not address the adequacy or accuracy of the EIR or the merits of the alternatives, it may be considered as part of CDFW's overall decision-making process rather than specifically as part of the CEQA process.
- O2-173 The commenter's comparison of Alternative 1 with Alternatives 10 and 11 is acknowledged. However, the comments included in this table were previously addressed in Responses O2-155 through O2-165. The commenter's preference for a proposal that does not meet the screening criteria is acknowledged and has been included in the formal record, where it will be available for consideration as part of CDFW's decision-making process.
- O2-174 See Response O2-173.
- O2-175 Receipt of this screenshot from a Heal the Bay website is acknowledged. For input provided by the Wetlands Restoration Principles Coalition, see Letter O28.
- O2-176 See Response O2-136 regarding Figure 50 from the Playa Vista First Phase Project Administrative Record.
- O2-177 The commenter's inclusion of a PowerPoint from The Bay Foundation that discusses the historical ecology of the Ballona Wetlands Ecological Reserve is acknowledged. However, because the inclusion of these materials does not directly comment on the adequacy or accuracy of the EIR or the merits of the alternatives, it may be considered as part of CDFW's overall decision-making process rather than specifically as part of the CEQA process.
- O2-178 See Draft EIS/EIR Section 1.5.3, Section 1.9, and Final EIR Section 1.4 regarding public participation. See also General Response 8, *Public Participation* (Final EIR Section 2.2.8.1), which addresses input received on this topic.
- O2-179 See Response O2-178 regarding public participation. See also General Response 7, *Requests for Recirculation* (Final EIR Section 2.2.7), which addresses multiple comments received requesting recirculation.
- O2-180 See Response O2-178. The commenter's identification of an article from 2009 is acknowledged. However, because this comment does not address the adequacy or accuracy of the EIR or the merits of the alternatives, a detailed response has not been prepared pursuant to CEQA. Instead, the comment has been included in the record for the Project, where it will be available for consideration as part of CDFW's overall decision-making process. See Final EIR Section 2.1.1, *Input Received*.
- O2-181 This reference to an article from *The Argonaut* newspaper from March 28, 2013, is acknowledged. However, it does not address the adequacy or accuracy of the EIR or the merits of the alternatives, and so has been included in the record for the Project. See Response O2-180 regarding similar treatment of input received.





- O2-182 This reference to an article about the Annenberg Foundation from July 11, 2013, is acknowledged. However, it does not address the adequacy or accuracy of the EIR or the merits of the alternatives, and so has been included in the record for the Project. See Response O2-180 regarding similar treatment of input received.
- O2-183 This reference to an article from *LA Weekly* from January 2014 is acknowledged. However, it does not address the adequacy or accuracy of the EIR or the merits of the alternatives, and so has been included in the record for the Project. See Response O2-180 regarding similar treatment of input received.
- O2-184 This reference to an article from *Free Venice Beachhead* from May 2014 is acknowledged. However, it does not address the adequacy or accuracy of the EIR or the merits of the alternatives, and so has been included in the record for the Project. See Response O2-180 regarding similar treatment of input received.
- O2-185 This reference to an article about the Annenberg Foundation from December 3, 2014, is acknowledged. However, it does not address the adequacy or accuracy of the EIR or the merits of the alternatives, and so has been included in the record for the Project. See Response O2-180 regarding similar treatment of input received.
- O2-186 Receipt of this *Los Angeles Times* article from November 30, 2017, discussing the Ballona Wetlands restoration project is acknowledged. See General Response 3, Alternatives (Final EIR Section 2.2.3.1), which addresses multiple requests that CDFW consider a “freshwater alternative.” See Response O3-63, which addresses the specimen identified by Mr. van De Hoek. Also see General Response 2, *Proposed Project* (Final EIR Section 2.2.2.3), regarding the proposed removal of SoCalGas Company infrastructure from within the Ballona Reserve.
- O2-187 Receipt of this duplicate input (also received from Ms. Hanscom) is acknowledged. See, generally, the responses to Letter O23 and, specifically regarding this article, see Response O23-69.
- O2-188 Receipt of this *Daily Breeze* article from November 27, 2017, which discusses the Project is acknowledged. However, it does not address the adequacy or accuracy of the EIR or the merits of the alternatives, and so has been included in the record for the Project. See Response O2-180 regarding similar treatment of input received.
- O2-189 Receipt of articles written by external sources is acknowledged. However, because this comment does not address the adequacy or accuracy of the EIR or the merits of the alternatives, it may be considered as part of CDFW’s overall decision-making process rather than specifically as part of the CEQA process. See Final EIR Section 2.1.1, *Input Received*.
- O2-190 Receipt of the 2013 *Los Angeles Times* article about the Annenberg Foundation’s proposal to build an interpretive center is acknowledged. However, because the proposal was withdrawn before the Draft EIS/EIR was issued, this article does not



- inform CDFW's consideration of the Project and alternatives. See Final EIR Section 2.1.1, *Input Received*.
- O2-191 See Response O2-190.
- O2-192 See Response O2-190.
- O2-193 See Response O2-190.
- O2-194 See Response O2-190.
- O2-195 Receipt of this 2013 *LA Weekly* article is acknowledged. See General Response 4, Drains (Final EIR Section 2.2.4).
- O2-196 See Response O2-195.
- O2-197 See Response O2-195.
- O2-198 See Response O1-11 regarding CDFW's limitation of public access to the Ballona Reserve under existing (baseline) conditions.
- O2-199 Receipt of the link to this 2014 article about grant funding to the Friends of Ballona Wetlands is acknowledged. However, because this comment does not address the adequacy or accuracy of the EIR or the merits of the alternatives, it may be considered as part of CDFW's overall decision-making process rather than specifically as part of the CEQA process. See Final EIR Section 2.1.1, *Input Received*.
- O2-200 See Response O2-199, acknowledging receipt of an article about grant funding and the Friends of Ballona Wetlands.
- O2-201 See Response O2-199, acknowledging receipt of an article about grant funding and the Friends of Ballona Wetlands.
- O2-202 See Response O2-199, acknowledging receipt of an article about grant funding and the Friends of Ballona Wetlands.



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February 5, 2018

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*sent electronically via email to the above addresses*

re: DEIR/DEIS comments - Ballona Wetlands Restoration Project: (State Clearinghouse No. 2012071090) and Federal Document: Public Notice/Application No.: SPL-2010-1155

Dear Ms. Rogers and Mr. Pert:

First, we appreciate all of the work that has gone into this DEIR/DEIS. Still, this collection of documents is severely flawed as a legal record. It is even more severely flawed with its conclusions - as an accurate representation of the current and historical realities of the landscape, the biodiversity and the species richness of the treasure that is the Ballona Wetlands Ecological Reserve.

O3-1

I invite you to review the photographic public record that exists from the camera and associated recordings by naturalist Jonathan Coffin. And please include this citation in the record so that all of the public, including the agency officials and other decision-makers can have access to the beauty and biodiversity of the land we know as the Ballona Wetlands Ecological Reserve – a mosaic of many different habitats – not only wetlands.

O3-2

[tinyurl.com/ballonaphotos](http://tinyurl.com/ballonaphotos)

As a biologist, hydrologist and archaeologist (Cultural Resource Management specialist) who worked in those capacities for the federal government in the United States Department of Interior and US Forest Service, and one who was responsible at the US Dept. of Interior for preparing numerous NEPA (National Environmental Policy Act) documents, and also responsible for reviewing and commenting on countless more, I am perplexed at the level of inaccuracies and failures to disclose or adequately analyze the many categories of analysis requested by the public during the Scoping review. This is especially disturbing, given that it took five years from the end of the scoping period until the DEIR/DEIS was released – and since it was another five years earlier when the Science Advisory Committee selected this project, essentially choosing the same project that is reflected in Alternative #1.

O3-3

**BALLONA INSTITUTE COMMENTS – BALLONA WETLANDS ECOLOGICAL RESERVE-DEIR/DEIS 2.5.18 1**



**Insufficient public review and comment opportunities:**

We have asked and asked for a full 180-day time period for circulation and review of the materials for this very complex project – especially since the DEIR/DEIS is organized in a fashion that makes it very difficult for the public to review. The Colonel for the Los Angeles District of the Army Corps of Engineers even told the public that he (“we,” he said) had heard the public in our request to have the public comment period extended beyond the initial extension to February 5, 2018. He said they **would** be extending the time period beyond Feb. 5, but he could not tell us that evening (November 8, 2018) to what date that would be. Then we were informed there would be no further extension, in spite of the holiday season and an unusually terrible flu season that impacted many of those interested in this proposal and concerned about the Ballona Wetlands.

O3-4

Additionally, our executive director has informed me that that there were several times when she went to the Marina del Rey library to review the documents, and except for the first time she went, there were NO appendices available. Either they were hidden from both the librarian and her, or they were removed from the library from the time of her first visit. She mentioned this to several officials, and nothing was done to replace these documents, so it appears that an improper availability of the documents existed. We also requested hard copies of the voluminous (8,000+ pages!) documents, and were denied our requests, in spite of elected officials requesting them for us.

O3-5

We also have reason to believe that insufficient circulation of this document to relevant agencies and departments occurred. We would like to see a full list of those to whom notice of this document’s availability was sent. Clearly, this process has not been genuinely transparent and that CEQA and NEPA goals require you to involve the public to the fullest extent possible in the spirit of the laws.

O3-6

**First Nation / Indigenous Peoples Cultural Interests:**

First and foremost, our organization has always held the First Nation people of this land in high regard. We have opened our Celebrate Ballona! events – always – with a prayer from the Indigenous People of this land. For this reason, we carefully reviewed the less than sufficient disclosures and analyses of the sacred sites designated at the Ballona Wetlands Ecological Reserve.

O3-7

According to the DEIR/DEIS:

*In summary, the NAHC indicated that while the Ballona Reserve is not itself registered as a sacred site in the SLF, individual sacred sites are recorded within the Ballona Reserve, and the Ballona Reserve should be considered extremely sensitive for Native American resources.*

O3-8

For example, there are numerous native plants at Ballona that are sacred, medicinal, food-procuring, housing, and tools. One example, but there are many more, is the Yerba Mansa that forms a wet meadow habitat, and is culturally transported by Indigenous women and elder grandmother women share their knowledge with their daughters, nieces, and granddaughters. Why is this information not in the Draft EIR/EIS? This is a failure and points to the need to start over with a new Draft EIR/EIS!. And why is Ethnobotany and ethnobiology for the hundreds of plants and animals at Ballona not discussed? What other examples from this cultural anthropology have been missed?

O3-9

We were disappointed to see that several of those who have long expressed interest in the sacred sites of the Ballona Valley were not contacted, according to information in the DEIR/DEIS – those include: Cindi Alvitre, Anthony Morales and Andy Salas. Please explain why this was not done, and what will be done to fully remedy the consultation required by federal and state laws, especially related to Section 106 of the National Historic Preservation Act and relevant provisions of the Native American Graves and Repatriation Act, as well as recently passed State of California laws related to First Nation sacred sites.. The absence of the Nativer Religious Freedom Act is a question that still remains unanswered, why?

O3-10

O3-11

**“Habitat, Habitat, Have to Have a Habitat”:**

The kindergartners, first, second and third graders I’ve taught at various local schools understand that habitat is the most important component of protecting wild species. We sing the song, “Habitat, Habitat, Have to Have a Habitat – to Carry On” together. Yet, the principals at The Bay Foundation, and those that have been captured by these private interests at the California Dept. of Fish & Wildlife, the LA County Public Works Dept. and the US Army Corps of Engineers who have collaborated on releasing this series of documents, apparently could use some music and song to remind them of the theme of “The Habitat Song,” as well as the first principle of restoration, the Precautionary Principle: “First, Do No Harm.”

O3-12

Large scale industrial habitat alteration that protects the SoCalGas infrastructure and asphalt-covered parking lots, but does not protect the rare, endangered and special status species of the Ballona Wetlands Ecological Reserve is in direct conflict with the reasons the public voted for wildlife conservation bonds that were spent to acquire this land.

Succinctly: Why would you remove habitat that is providing food and shelter for so many rare and imperiled species?

**Public Access, Public Participation:**

Please explain why the SoCalGas staff can walk and drive vehicles on the surface access roads, but the public cannot do so. This corporation does more impact than the public walking on these public access roads of the Ecological Reserve.

O3-13

Given that nearly 40% of Los Angeles County residents speak Spanish at home and a short distance away from the Ballona Wetlands Ecological Reserve is a significant population of Spanish-speaking families, please explain why the DEIR/DEIS and its accompanying documents and reference materials were not published in Spanish. And please correct this deficiency in compliance with appropriate laws, including CEQA and NEPA. Please also acknowledge in this effort we trust you will undertake that the culture of Spanish-speaking people often perceive Nature in unique and special ways.

O3-14

SoCalGas Playa del Rey gas storage field

The DEIR/DEIS fails to fully analyze the contributions a modernization of drilling site and other equipment will bring to Los Angeles when LA & CA have committed to 100% renewable energy. Explain how this contribution to greenhouse gases and climate change escaped your notice.

O3-15

**California Department of Fish & Wildlife and the status of Ballona:**

**Mission Statement**

The Mission of the Department of Fish and Wildlife is to manage California's diverse fish, wildlife, and plant resources, and the habitats upon which they depend, for their ecological values and for their use and enjoyment by the public.

While this Mission Statement sounds great, and I know of numerous fine biologists who I've worked with and collaborated with at the Department, this mission statement and the proposal coming from CDFW for the Ballona Wetlands Ecological Reserve are not in sync. I know with every fiber of my being that the Department never would have come up with this scheme to completely destroy so many acres of habitat, move what is being referred to as "disturbed fill" to dump on top of other habitats – including rare, imperiled populations of the Lewis' Primrose *Camissoniopsis lewisii* (Raven) for example, and re-sculpt a significant portion of the Ecological Reserve into something it never was.

There is an equilibrium at the Ballona Wetlands currently, after nearly 100 years since Ballona Creek was constructed, and after more than 50 years since the small craft harbor at Marina del Rey was built. This equilibrium has allowed nature the time at her own pace to bring back numerous species which have flourished in the 25 years since I've been observing the habitats at Ballona. Disturbing these sites now only invites more habitat disruption and diminishing of species diversity and abundance.

The result of this project is that its aim is to protect infrastructure (like that of SoCalGas and its gas storage field) and unpermitted asphalt parking lots for private businesses. These priorities do not mesh with that of the Mission of the Department or the law establishing Ecological Reserves.

Additionally, we are very concerned that – except for the two years during which Brad Henderson was the CDFW state land manager at Ballona, from approximately 2005-2007, the public has been mostly shut out of "use and enjoyment" of this land which was bought with 140 million dollars of public funds. These funds were mostly (\$130 million of the total) allocated from Wildlife Conservation bond (WCB) moneys. Public access – sensitive public access – needs to be implemented by the Department regardless of and separate from the proposed project plans. Public access should not be held hostage to this destructive and unpopular plan.

**Upland habitat importance and special status plant species:**

Most qualified and experienced wetland scientists acknowledge that sufficient upland habitat (3-1 ratio of acreage of upland to wetland) is needed in order to support species that utilize the wetlands. For instance, the Great Blue Heron, which is considered a charismatic megafauna for Ballona, will be unable to carry on a successful nesting colony on the Los Angeles coast if the uplands-grasslands in Area A are disturbed and altered so that the significant small mammal population there is unable to survive. Why? Because the juvenile Great Blue Heron need about two years to learn refraction – where they learn how to fish with their beaks through the water. During this time when they are learning the art of fishing/refraction, they must forage for small mammals and lizards – which are

O3-16

O3-17

O3-18



currently abundant in Area A – about 139 acres, predominantly upland prairie habitat. It is a failure of the DEIR/DEIS to not include such information. What else is missing?

↑ O3-18  
cont.

The White-tailed Kite is another species that regularly hunts in Area A, and this species – while I’ve documented it nesting in nearby neighborhoods, will not be able to continue to survive at Ballona without the upland habitats the species enjoys today.

↑ O3-19

The grassland of the relatively “new” upland habitat of Ballona that was created in 1960 - some 60 years ago in Area A - is a blessing to the conservation of the wetlands, and it’s misunderstood and needs to be heralded and praised, rather than negatively referred to as being “degraded.” Why weren’t other views (especially those of the CDFW – that respects nonnative annual grasslands as important to imperiled wildlife species) even considered, adequately disclosed and analyzed?

↑ O3-20

There are many more species that use Area A, including an impressive array of pollinators and other insects- including more than 100 native ant and ant-like species that were documented by the Los Angeles County Natural History Museum.\* And yet, the diversity of this land and its species richness – as well as its natural heritage values - are ignored in the conclusions drawn that allow the basic wholesale destruction of this portion of the ecological reserve.

↑ O3-21

*\*The document that illuminates this fact and many more about the biodiversity of species at the Ballona Wetlands Ecological Reserve only recently was posted on the CDFW website with the DEIR/DEIS documents – and no notice was given to the general public about the addition of these materials to the site. We believe, therefore, that at the very least a recirculation of the CEQA and NEPA documents is required by law. Also, not all documents in the reference file would open.*

↑ O3-22

Additionally, we are quite concerned that two of the most important Ballona populations of Lewis’ Primrose *Camissoniopsis lewisii* – in Areas A & C – is likely to be completely, if not mostly, covered with new levees and “uplands” that would completely destroy the fragile and rare cryptobiotic soils that this species relies on.

↑ O3-23

The proposed mitigation efforts for rare and special status plant species, for instance, are wholly inadequate. All of the rare and special status plant species are required, by law, on public land to be protected, not to be moved or “re-established” – in large part because they require special soils – some like the Lewis’ Primrose *Camissoniopsis lewisii* – require ancient cryptobiotic crust or cryptogamic soils, which cannot be duplicated by humans – but have taken Nature many, many, many years to create.

↑ O3-23

Additionally, Lichens and Bryophytes - Mosses and other plants that make up the Cryptobiotic Soils why were not revealed, evaluated or discussed in the DEIR/DEIS documents?

↑ O3-23

The naturalist photographer, Jonathan Coffin, has placed numerous photos on his public website of Lichens, Bryophytes, Fungi, or simply mushrooms and mosses, and yet, you have ignored this important aspect to any Ecological Reserve. His photos are made on a daily basis, rain or shine, 365 days each year for approximately the last 10 years, so that 3650 days have been documented thus far.

↑ O3-24

The same is the case for the *Suaeda* population – which has flourished on the south levee – possibly partially because of its unique location and micro-climate. Notably, this plant species is not growing

↓ O3-25

to the east of the Army Corps tide gate, nor is it growing on the north levee. Why? Unknown. It is the unknowns of science that cause us to need to take The Precautionary Principle into account and is why common and legal practice requires that these special status species remain in place and not be attempted to be grown under nursery conditions, which are very different than in the wild.

O3-25  
cont.

Why wasn't this important practice of protecting these special status species in place considered before the obviously preferred Alternative #1 was selected? Please explain why species surveys and baseline data sets were not completed, or even begun prior to the determination that Alternative #1 would be the one where the millions of dollars in engineering drawings were expended.

O3-26

I will quote from the DEIR/DEIS, so readers of these comments can easily find the rules and regulations for protection of these special status species plants:

### ***Special-Status Plant Species***

Special-status plant species are legally protected under the California Endangered Species Act (CESA) (Fish and Game Code §2050 et seq.), the Native Plant Protection Act (Fish and Game Code §1900 et seq.) and/or the federal Endangered Species Act (FESA), other regulations, or considered sufficiently rare by the scientific community to qualify for such a listing. Special-status plant species include the following categories:

1. Officially listed by California or the federal government as endangered, threatened, or rare;
2. A candidate for state or federal listing as endangered, threatened, or rare;
3. Taxa that meet the criteria for listing, even if not currently included on any list, as described in CEQA Guidelines Section 15380;
4. Taxa listed in the CNPS Inventory of Rare and Endangered Plants of California (note that all California Rare Plant Rank (CRPR) 1 and 2 species and some CRPR 3 and 4 species fall under CEQA Guidelines Section 15380);
5. Taxa that are biologically rare, very restricted in distribution, or declining throughout their range but not currently threatened with extirpation;
6. Population(s) in California that may be peripheral to the major portion of a taxon's range but are threatened with extirpation in California;
7. Taxa closely associated with a habitat that is declining in California at a significant rate (e.g., wetlands, riparian, vernal pools, old growth forests, desert aquatic systems, native grasslands, valley shrub land habitats); and
8. Taxa that are locally rare based on the opinion of a recognized expert or that are listed in a locally maintained list (e.g., recognition by the Los Angeles-Santa Monica Mountains chapter of CNPS) as rare.

O3-27

These plants must be PROTECTED. Not dug up and placed in pots for "replanting" later – if the plants were to even survive long enough in that non-wild condition.

**Lichens:**

The DEIR/DEIS failed to adequately disclose or analyze the presence and importance of Lichens throughout the Ballona Wetlands Ecological Reserve – including on the south levee walls, but also in other locations in the reserve. A Lichen expert has visited the site and even discovered a Lichen species that apparently exists nowhere else in the world. A recent visit to the levees with staff from the Los Angeles County Department of Public Works revealed that supervisors responsible for the maintenance of these levees were completely unaware of the Lichens on the levees. They thought they were “just concrete” – and had no idea of the life living on the concrete. It is for this reason, and others, that it is so important to reveal all of this information in the DEIR/DEIS, for full disclosure of what could be lost if this project is approved and allowed to go forward – which would be a tragedy on so many levels.

O3-28

This topic is just one of many topics we asked to be studied during the scoping period, yet were ignored. Why were the topics Ballona Institute requested to be analyzed ignored? Please explain why each one of the 33 points we requested to be explained or analyzed were not fully explained or analyzed.

O3-29

Of interest to LA County staff was that the levees with the lichens are 75 years of age and built in the GREAT DEPRESSION by CCC and WPA adult men and is considered a very important part of the history of our Nation and thus eligible to be listed on the National Register of Historic Places, including establishing a National Historic Site, Historic District, and National Historic Park, especially because this levee is shared in ownership by the US Federal Government and Los Angeles County.

O3-30

**Additional misrepresentations and factual errors:**

There are many, many factual errors and misrepresentations in this DEIR/DEIS. There is no way to cover them all adequately. However, one of the first reference documents I saw when logged on to the CDFW site (which did not initially included these reference docs, was The Bay Foundation’s baseline surveys. Unfortunately, there are many inaccuracies in these reports, likely because the teams that performed the surveys, while well-meaning, I’m sure, did not have the expertise that the teams employed by the Los Angeles County Natural History Museum did in the 1980s. For example, there were 5 entomologists involved in the Museum surveys, yet not even one entomologist was involved in this survey.

O3-31

Additionally, here are just a few of the concerns:

Orcutt’s Yellow Pincushion – there is no mention of the population of this species being found at Ballona Lagoon Marine Preserve. And this population makes for a meta-population and enhances the survival of all the populations collectively by adequate genetic integrity.

O3-32

California Least Tern – on page 531 – the DEIR/DEIS states this is a low-potential forager. Where did this information come from? This bird species regularly forages in the Ballona Creek channel and elsewhere in the sloughs of the Ballona Wetlands Ecological Reserve. Nesting always occurs only on upland habitat, yet another example that shows linkages of needing to save and protect both upland and wetland as coordinated management.

O3-33



The DEIR/DEIS states that the Gray Fox (*Urocyon cinereoargenteus californicus*) historically has been identified on site, but not in recent years. Naturalist Jonathan Coffin has photographed several individuals of this species onsite at the Ballona Wetlands Ecological Reserve in recent years. Clearly, the Gray Fox is secretive and nocturnal and difficult to detect the presence unless surveys are done sensitively and throughout the year. The Gray Fox is an example of recovery not restoration at the pace that Nature can only determine and understood by the USFWS when the Endangered Species Act as written by scientists and politicians working together.

O3-34

#### Cumulative impacts:

There was a failure in the DEIR/DEIS to adequately address the cumulative impacts of numerous developments – some now proposed and some in process of being approved and constructed in county and city jurisdictions adjacent to and nearby the BWER. Some of these projects were not even proposed in 2012, when scoping began, but the project proponents are required by law to include the cumulative impacts of these projects, including utility operations, expansion of the new Cedars Sinai, Trader Joe’s shopping center, Toyota parking lot, Silicon Beach expansions and many more.

O3-35

#### Endangered Species:

The DEIS fails to inform the public of evidence of required consultation with the US Fish & Wildlife Service for at least seven species – and maybe more - under the federal Endangered Species Act. Please correct this deficiency.

O3-36

#### Summary:

In conclusion, I want to remind the decision-makers of this important part of the Joni Mitchell song, “You don’t know what you’ve got ‘til it’s gone” – that phrase, for a scientist like me – who is regularly learning about what we have lost or destroyed in terms of the natural world, has always struck a chord for me. It is clear from a cursory review of the DEIR/DEIS documents (which is all that I could possibly do with such an extensive document file in this short time) – that the authors of these documents don’t know everything that would be destroyed or lost if any of the three primary alternatives are allowed to go forward. And the general public is even less aware of what would be lost or destroyed. Therefore, I will ask once again if you will please consider selecting Alternative 4 – as it is the one alternative you have that most is in alignment with The Precautionary Principle of “First, Do No Harm.”

O3-37

I like to call this the “Do Everything” Alternative, because if this alternative is selected, it really means that the land managers are free to open up public access trails – with coastal development permits and Environmental Assessments; to put together recovery plans for species that might fit into the ecosystem – recovery of species like the California Quail, the Bald Eagle, Salt Marsh Bird’s Beak, the Black-tailed Jack Rabbit, the Southern Sea Otter and the Los Angeles Sunflower and to

install fences, provide wildlife crossings and so many other activities that can be done on a “go slow,” community-engaged approach to what we (and a San Francisco Judge) like to call “genuine restoration.” Thank you to our attorneys, Jan Chatten-Brown and her partner, Doug Carstens, for guiding the judge to this realization and statement. I was glad to be an expert scientist and witness in that case at Grand Canal/Ballona Lagoon that allowed the City of Los Angeles to do oversee a genuine community-engaged restoration with no heavy equipment, no unsustainable irrigation lines, and thus no bulldozing needed.

↑ O3-37  
cont.

↑ O3-38

Please withdraw this project so the rain water can soak into the soils after being deprived of that rain water for nearly 20 years in some areas of the Ballona Wetlands State Ecological Reserve due to illegally installed drains.

↑ O3-39

And please embrace The Precautionary Principle.

“Slow down, you move to fast...” (1960s Ballad of Simon & Garfunkel) as the NEPA – National Environmental Policy Act law worked its way through Congress.

Sincerely,

“Roy”

*Robert Jan van de Hoek /s/*

Robert Jan “Roy” van de Hoek  
Conservation Biologist, Archaeologist, Coastal Geographer & Wetland Scientist  
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Endangered & Imperiled Species Documented in Recent Years at the  
Ballona Wetlands Ecological Reserve

Federal Endangered Species List – [E] = Endangered [T] = Threatened

O3-40

1. Least Bell's Vireo *Vireo bellii pusillus* [E]  
(resident songbird) nesting



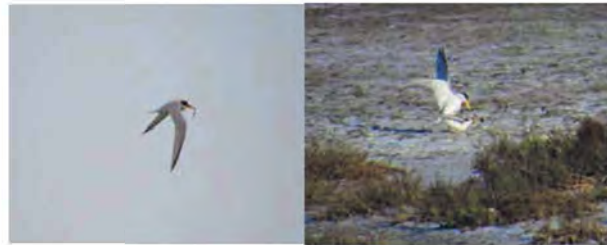
2. Coastal California Gnatcatcher *Poliophtila californica californica* [T]  
(migratory songbird) nesting at nearby Playa del Rey Dunes at LAX



3. El Segundo Blue Butterfly  
*Euphilotes battoides allyni* [E]  
reproducing in dunes at BWER;  
also reproducing in PDR Dunes at LAX



4. California Least Tern *Sterna antillarum browni* [E] (migratory  
shorebird – migrates from Guatemala and southern Mexico; nests on  
nearby Venice Beach in specially fenced preserve; feeds on fish in the  
shallow water sloughs and in Ballona Creek; mating documented on salt pannes)



5. California Sea-Blue – *Suaeda californica* [E]  
Growing in Area B, south of Ballona Creek



6. Western Snowy Plover *Charadrius nivosus nivosus* [T] –  
nesting at nearby Dockweiler Beach; sheltering at BWER salt panne



7. Light-footed Ridgway's Rail (Light-footed Clapper Rail) *Rallus longirostris levipes* – [E]  
Female for at least last 2 years at freshwater marsh on edge of BWER (land owned by State Lands Commission)



O3-41



State of California Endangered Species List - [E] = Endangered [T] = Threatened

1. Belding's Savannah Sparrow *Passerculus sandwichensis beldingi* [E]  
(resident songbird) (nesting)



O3-42

2. Least Bell's Vireo *Vireo bellii pusillus* [E] (resident songbird) nesting



O3-43

3. Light-footed Ridgway's Rail (Light-footed Clapper Rail) *Rallus longirostris levipes* – [E]  
female 2 years at freshwater marsh on edge of BWER (land owned by State Lands Commission)



O3-44

**Imperiled Species - Special Status**

*Treated as if on endangered species list by state officials due to settlement agreement with CA Native Plant Society or Center for Biologist Diversity; listing package submitted for endangered species list; Species of Special Concern, or on other special status State of California lists*

1. Lewis' Evening-Primrose *Camissoniopsis lewisii*
2. Wandering Skipper Butterfly *Panoquina errans*
3. South Coast Marsh Vole *Microtus californicus stephensi*
4. Silvery Legless Lizard *Anniella stebbinsi*
5. Southern Tarplant *Centromadia parryi* ssp. *australis*
6. Southern California Ornate Shrew *Sorex ornatus salicornicus*
7. Grasshopper Sparrow, *Ammodramus savannarum*
8. California Horned Lizard *Phrynosoma blainvillii blainvillii* (Gray)
9. Western Sand Spurrey *Spergularia canadensis*
10. Southern Marsh Harvest Mouse *Reithrodontomys megalotis limicola*
11. Grasshopper Sparrow *Ammodramus savannarum*
12. Cooper's Hawk *Accipiter cooperii*
13. Double-crested Cormorant (breeding) *Phalacrocorax auritus*
14. Oregon Vesper Sparrow *Pooecetes graminea affinis*
15. Wigeon Grass (rare SAV) *Ruppia maritima*
16. Spiral Wigeon Grass (rare SAV) *Ruppia cirrhosa*
17. Vernal Barley *Hordeum intercedens*
18. South Coast Branching Phacelia *Phacelia ramosissima*
19. Monarch Butterfly *Danaus plexippus*
20. Orcutt's Yellow Pincushion *Chaenactis glabriuscula* var. *orcuttiana*
21. Slender Arrowgrass *Triglochin concinnum*
22. Ballona Wallflower *Erysimum suffrutescens* (type locality-Ballona)
23. Alkali Barley *Hordeum depressum*
24. Woolly Sea-Lite *Suaeda taxifolia*
25. Slender Salamander (entire pop. Less than 1,000) *Batrachoseps attenuatus attenuatus* (Eschscholtz)
26. Ballona California Kingsnake (special markings) *Lampropeltis getula californiae*
27. Loggerhead Shrike *Lanius ludovicianus*
28. Western Meadowlark *Stumella neglecta*
29. Northern Harrier *Circus cyaneus*
30. Great Blue Heron (breeding) *Ardea herodias*
31. Great Egret (breeding) *Ardea alba*
32. Snowy Egret (breeding) *Egretta thula*
33. Black-crowned Night Heron *Nycticorax nycticorax*
34. Western Pony's-Foot (*Dichondra occidentalis*)
35. Burrowing Owl *Athene cunicularia*
36. Ferruginous Hawk *Buteo regalis*

O3-45





*Other Noted &/or Protected Species\**

1. **California Brown Pelican** – *Pelecanus occidentalis californicus* - feeds and rests in Ballona Creek channel – de-listed from federal endangered species list in 2009, but still being watched by officials, biologists | O3-46
2. **American Peregrine Falcon** *Falco peregrinus anatum* – 3 foraging at Ballona in 2017; – de-listed from federal endangered species list in 2009, but still being watched by officials, biologists – CA “FULLY PROTECTED SPECIES” | O3-47
3. **White-tailed Kite** – *Ianus leucurus* | O3-48
4. resident in the Ballona Valley/nests in nearby neighborhood trees/forages in grasslands at Ballona; has its own law in California – CA “FULLY PROTECTED SPECIES”
5. **Palmer's Goldenbush** - *Ericameria palmeri var. palmeri* – CNPS 1B1 list – State of California: imperiled S2
6. **Numerous Lichens that have recently been documented and re waiting protected status.**
7. **AND – MANY, MANY** insect and spider species, including numerous native ant populations, dragonflies, damselflies, butterflies and so much more that is not being accounted for or dismissed as “they will come back” – well, these natural heritage species will not all come back – and we are losing them fast, as habitat is destroyed for urbanization and extractive industries

\*Note: The Migratory Bird Treaty Act protects many of the bird species at Ballona not mentioned here or listed under “Other Noted Species.” More than 200 bird species have been documented at the Ballona Wetlands Ecological Reserve.



12.9.17- photos by Jonathan Coffin, Don Sterba, John Rusk  
List compiled by:



PAGE 4





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February 5, 2018

**A D D E N D U M**

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and California Dept. of Fish & Wildlife  
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[BWERcomments@wildlife.ca.gov](mailto:BWERcomments@wildlife.ca.gov)

*sent electronically via email to the above addresses*

re: DEIR/DEIS comments - Ballona Wetlands Restoration Project. (State Clearinghouse No. 2012071090) and Federal Document: Public Notice/Application No.: SPL-2010-1155

Dear Ms. Rogers and Mr. Pert:

We understand that you are accepting comments until midnight today, from a telephone conversation that Leslie Purcell had today with Richard Brody.

Therefore, please accept these additional comments that were not able to be included in time for the initial 5 pm deadline.

**RECREATION, PUBLIC ACCESS, BICYCLE COMMUTING LOSS:**

We are shocked and wondering what the analysis was – we didn't see one in the DEIR/DEIS – related to the two significant reductions in recreational, public access and bicycle commuting losses that will be impacts for the public should either Alternative #1, Alternative #2 or any alteration of these two alternatives be selected, approved and constructed. There was a failure to disclose these losses or to analyze them fully.

O3-51

1. Ballona Creek is a well-used rowing channel, highly valued by rowing teams from USC, UCLA and LMU, as well as visiting competitors for rowing races. This rowing channel, from what we understand must be straight, as it is now, in order for the rowing teams to continue the use of this area – thus, this recreational boating area will be lost if this project proceeds.

O3-52

2. The bicycle path on the north levee would also be lost if either Alternative #1 or #2 is selected and proceeds to be constructed. This would be a loss of the most direct, quickest recreational route to and from Playa del Rey, Del Rey, Playa Vista and Culver City. If one wants to ride to the beach, they might not want to take a detour up some steep inclines and all around the ecological reserve. O3-53

3. Additionally, the loss of this bicycle path would diminish the transportation commuting path that is used by many cyclists who travel this route to and from work by bicycle. While the “replacement” bike paths might be attractive to those who designed them, they are not utilitarian to the worker who lives in Manhattan Beach, but is used to cycling on the north levee bicycle path, headed to Facebook, Google or any of the other Silicon Beach businesses via the Centinela off-ramp from the bike path. These people are not going to want to go up and down and all around the ecological reserve to get to work and back. O3-54

4. Emergency access currently used on the north levee would also be lost and needed to be disclosed and to be analyzed as a loss. O3-55

Why was there not adequate disclosure of these losses of an important rowing areas, and a well-used cycling recreational and commuting path, as well as for emergency use and no analysis of those losses. O3-56  
O3-57

### LOSS OF HABITAT – LEVEE WALLS – NEW WALLS – LOSS OF HABITAT:

Where are the disclosures or analysis of impacts in the DEIR/DEIS about the likelihood that small mammals and herpetofauna that use upland habitat for food and shelter will be incompatible with bicyclists and walkers on the same earthen walls or giant berms? O3-58

Where are the disclosures of Belding’s Savannah Sparrows using habitat ON THE SOUTH LEVEE – where the levees is contemplated to be demolished – and what will the impacts be to this state endangered species when this habitat is destroyed for this proposed project? O3-59

Where are the disclosures about other species – a wide variety of species – that currently use the habitat for food and shelter on both the south and north levees – and what will the impacts be when this habitat is destroyed for this proposed project? O3-60

Where are the disclosures and discussions of impacts related to the longitudinal sandbar in the middle of Ballona Creek? O3-61

Sincerely,  
“Roy”  
Robert Jan van de Hoek /s/  
Robert Jan “Roy” van de Hoek  
Conservation Biologist, Archaeologist, Coastal Geographer & Wetland Scientist  
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February 5, 2018

**SECOND ADDENDUM**  
**Discovery of New California Native Wildflower**  
**at Ballona Wetlands Ecological Reserve**

United States Army Corps of Engineers and  
Los Angeles District, Regulatory Division  
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[BWERcomments@wildlife.ca.gov](mailto:BWERcomments@wildlife.ca.gov)

*sent electronically via email to the above addresses*

re: DEIR/DEIS comments - Ballona Wetlands Restoration Project.. (State Clearinghouse No. 2012071090) and Federal Document: Public Notice/Application No.: SPL-2010-1155

Dear Ms. Rogers and Mr. Pert:

We understand that you are accepting comments until midnight today, from a telephone conversation that Leslie Purcell had today with Richard Brody.

Therefore, this is a second addendum standing alone from first addendum prior to 12am Midnight.

Clearly, the DEIR/DEIS did not include a complete survey of all plants at the Ballona Wetlands Ecological Reserve. This short report will explain. Please provide information in the Final EIR/EIS as to how this special plant population will be protected, as is the mandate of the California Department of Fish & Wildlife.

O3-62



**Discovery of New California Native Wildflower  
at Ballona Wetlands Ecological Reserve  
Robert Jan van de Hoek, President  
Ballona Institute  
Los Angeles, California**

In early November 2017, the State of California Department of Fish and Wildlife, together with the U.S. Army Corps of Engineers, and the Los Angeles County Department of Public Works held a public hearing on the Draft Environmental Impact Report and Draft Environmental Impact Statement for restoration alternatives of the Ballona Wetlands State Ecological Reserve, which was filmed and recorded by the three government agencies present at the public meeting in Marina del Rey, Los Angeles County, California. In that public hearing, I was allotted 5 minutes due to being the representative for an organization called the Ballona Institute, for which I am the president and the environmental biologist and geographer. I testified that I had discovered a new rare species for the Ballona Wetlands, but that I would not disclose the name of California native plant, nor the location, for fear of vandalism or deliberate removal by the state agency that manages the Ballona Wetlands and has keys to gates with access by vehicle that could remove the plant in order to have no evidence that the rare California native plant exists at the Ballona Wetlands State Ecological Reserve. I also stated that a 20-30 foot tall and 100 foot wide wall of reinforced steel inside a stone and earthen cover would be place on the footprint of the population of this rare native plant.

Approximately one week after the public hearing mentioned above, in late November 2017, I was contacted by phone by the senior investigative journalist for environmental issues at the Los Angeles Time, whose name is Louis Sahagun. I was interviewed for the purpose of a front-page story in the LA Times on the discovery of this new rare plant. The journalist, Louis Sahagun, required to know a name for this new plant, but promised to not disclose the location at the Ballona Wetlands. So I led him and a staff photographer for the LA Times to the location of a population of approximately 28 plants in a 5m x 5m = 25 square meter area on a habitat and plant community with a soil called a pebbly sandy plain that includes other native plants such as everlasting species, stonecrop species, and a second rare annual California native wildflower called *Camissoniopsis lewisii* (Raven) with an English name of Lewis Primrose.

The LA Times journalist, Louis Sahagun, wrote about the native plant and used the name that I shared with him as the Palmer Goldenbush, and the scientific name is *Ericameria palmeri palmeri*, named for Edward Palmer, a late 19<sup>th</sup> Century botanical explorer and anthropological ethnobotanist and archaeologist with a fascination with the use of plants by Indigenous Peoples of North America. Interestingly, the Palmer Goldenbush is a medicinal plant to tribal California Native American Indian Peoples living in the San Diego area of California and Northwest Baja California. The links and connecting the dots of this dual nature of a California native plant as representing both unique biodiversity and medicinal use to a First Peoples culture is genuinely fascinating and important to consider in the preservation and protection of this native plant population of a native plant in the Family Asteraceae, in English known as the Sunflower Family.

In my research of the botanical literature from the 1870s when Asa Gray, Smithsonian and U.S. National Museum Botanist, first named this member of the Asteraceae as *Haplopappus palmeri* Gray, to the early 20<sup>th</sup> Century, when a UC Berkeley botanist, Harvey Monroe Hall, mentored by Willis Jepson as his doctoral advisor, and Mr. Hall, whose dissertation was on the Compositae of Southern

O3-63

California, published in the University of California Publications in Botany, circa 1906, changed the scientific name with the genus becoming *Ericameria*, so that the native plant became *Ericameria palmeri* (Gray) Hall. The morphological structures in the flowers and leaves also led Harvey Monroe Hall to name and change a second species to two subspecies of *Ericameria palmeri*, as *E. p. palmeri* and *E. p. pachylepis*. Harvard Monroe Hall would go on to have a distinguished career as botanist and plant ecologist with the Carnegie Institute and would write more about the ecology of the Genus *Haplopappus* in 1928, and beyond the scope of this article and research at this time.

Three decades later after Harvey Monroe Hall completed his dissertation on the Compositae, in 1935, the distinguished California botanist, Philip Munz, in his masterful Manual of Southern California Botany, changed the name yet again, this time back to a slightly different spelling of *Haplopappus*, minus the “H” as *Aplopappus palmeri* Gray, var. *pachylepis* (Hall) Munz. However, this new species I discovered at Ballona in coastal Los Angeles County less than one mile from the ocean, does not fit nicely with keys and characters to be this variety *pachylepis*, but is closer in morphology to the variety called *E. p.* [var. or ssp.] *palmeri*, the nominate variety or subspecies, depending on the philosophy of botany that one favors, as some choose variety and others choose subspecies and can vary from family to family, whether in the Family Cactaceae or the Family Asteraceae, for example.

Just 4 years later, in 1939, distinguished California botanist, Howard McMinn, in his Illustrated Manual of California Shrubs, changed the name back to *Haplopappus palmeri* Gray and used an English name without an apostrophe as Palmer Goldenbush, and this is the first time in 1939 that a published English name is used alongside the scientific name.

The use of the English name has a fascinating history that is much shorter and since this native plant is found also in Mexico where the type locality is located and found by Edward Palmer at Tecate Mountain, and occurs north into the USA in California and further south to central coastal Northwest Baja California, the distinguished botanist at the San Diego Museum of Natural History, in his recent book, Flora of Baja California, used the English name of Palmer Goldenbush, also without an apostrophe, so that we have a span of 1939 to 2015, a period of approximately 75 years, where no apostrophe, so no ownership of this wild native plant is used and we simply state Palmer Goldenbush, not unlike a popular California native tree that is called the Torrey Pine with no apostrophe to show ownership.

About three decades after McMinn, Robert Hoover, in 1970 (citation in next paragraph) realized that on the central California coast with a cooler and wetter climate, that *E. palmeri* and *E. pinifolia* needed to be merged under the *E. ericoides*, as a new variety, and so var. *pachylepis*, under *E. palmeri*, is moved to *E. ericoides* var. *pachylepis* (Hall) Hoover, n. comb.

In the 2000s, coming closer to today, distinguished modern botanist at Louisiana State University, Lowell Urbatsch and his students in his lab, namely R. P Roberts, for example in an article in 2003, in Taxon, volume 52:209-228, using new techniques in Genetics called phylogenetics, first coined in California by Harvey Monroe Hall, who is discussed above, has been both reinforcing the classical taxonomy and systematics of *Ericameria* phylogeny but also making changes. There appears to be a movement afoot for the philosophy of botany under Dr. Lowell Urbatsch to lump species of coastal *Ericameria* in California into *Ericameria ericoides*, following the distinguished prescient botanist, Robert Hoover, at Cal Poly San Luis Obispo, in his UC Press book, Vascular Plants of San Luis Obispo

O3-63  
cont.

County, where he announced that in the future, *E. palmeri* and *E. pinifolia* would be merged together under *E. ericoides*.

Given the principles of species definition on isolation geographically with no contact, whether by natural barrier such as water in the case of oceans separating islands and continents or human urban islands creating long distances of no *palmeri* are isolated in time and space for many decades now, with no change of reconnection, only more separation, and tinkering at fake restoration to use bulldozers in remaining natural areas, even legally called State Ecological Reserves, such as at Bolsa Chica and Ballona and Upper Newport Bay, new threats by the so-called field of ecological restoration are collapsing further natural biodiversity and making islands of natural habitat lost in time and space, so the islands of natural habitat are increasing even further, such that the new discovery of the Ballona Goldenbush is *Ericameria ericoides* ssp. *ballonica*, n. comb. and the California Goldenbush is *Ericameria ericoides ericoides* may even both be lost by bulldozing under the guise of restoration, there is very good reason in both science and politics to consider these new taxa at the cutting edge of the current research of Lowell Urbatsch and his students at Louisiana State University in Baton Rouge. This new name is hereby published in the public document of the Draft EIR / DEIS of our federal, state, and county government.

The geographic distribution is restricted to one population of approximately 28 individuals in a vegetative plant community with a pebbly-cobbly sandy plain composed of only this perennial shrub and a suffrutescent shrub of *Gnaphalium* spp. (everlasting, Family Asteraceae) and annual native wildflowers including the very rare *Camissoniopsis lewisii* (Raven) and native annual stonecrop (Family Crassulaceae) and distinctive multi-species cryptobiotic crust that qualifies as a cryptogamic soil, located in what is called Area A of approximately 140 acres, west of State Highway 1 (Lincoln Boulevard, north of Río Ballona (Ballona Creek), south of Fiji Way, and west of the Fishermans Village in Marina Del Rey in an urban estuary embayment of the Pacific Ocean. The climate is very moderated by the ocean and a tidal slough, urban river, so surrounded by water on 3 sides, and a regular dense heavy-laden moisture of ground “Tule” Fog that plays a role in driving evolution along with the sandy soil composition, favoring rapid evolution and natural selection pressure in a Family and Genus (Asteraceae and *Ericameria*) experiencing rapid evolution during the geological late Cenozoic Era from the Miocene Epoch to the Quaternary Era and post-Pleistocene Epoch of the Holocene Epoch of today, with urban isolation as an urban island speeding up evolution, especially in native plants with plasticity and recognized by Harvey Monroe Hall between 1906 to 1928, in his early phylogenetic analyses of *Haplopappus* Genus, and concluding with Harvey Monroe theorizing that the origin of *Ericameria* is in Mexico and tropical central America in the geologic past and possible linkages to another portion of a related *Ericameria*-like genus in South America, all beyond the need at this time for the recognition of the Ballona Goldenbush and California Goldenbush populations at the Ballona Wetlands State Ecological Reserve as very rare and special and in need of emergency listing under the U.S. Endangered Species Act as either an endangered species or threatened species.

Robert Jan van de Hoek /s/

Robert Jan “Roy” van de Hoek

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O3-63  
cont.





## Letter O3: Ballona Institute

- O3-1 The commenter's opinion about the Draft EIS/EIR is acknowledged. However, this belief alone, unsupported by facts, reasonable assumptions based on facts, or expert opinion supported by facts, does not provide sufficient information to allow CDFW to address the stated concern in any detail. See, generally, General Response 3 (Final EIR Section 2.2.3.2), which discusses the historical ecology of the Ballona Reserve; General Response 5, *Biological Resources* (Final EIR Section 2.2.5.1), which discusses the baseline biological resource conditions relative to which impacts were evaluated in the Draft EIS/EIR.
- O3-2 Receipt of the link to Mr. Coffin's photographs of wildlife in the Ballona Reserve is acknowledged. The images provided have been included in the formal record where they may be taken into consideration by CDFW as part of the decision-making process. However, because the images do not inform CDFW's consideration of the potential impacts of the proposed restoration or the merits of potential alternatives, no more detailed response has been provided. See Final EIR Section 2.1.1, *Input Received*.
- O3-3 The commenter's opinion about the Draft EIS/EIR is acknowledged. However, without more specific information regarding which inaccuracies or omissions the commenter is referring to, CDFW does not have enough information to provide a detailed response.
- O3-4 See General Response 8, *Public Participation* (Final EIR Section 2.2.8.1), regarding the Lead Agencies' decision not to further extend the comment period beyond 133 days.
- O3-5 Appendices to the Draft EIS/EIR were available with printed copies of the Draft EIS/EIR during normal working hours at the California State Coastal Conservancy and specified public libraries in Playa Vista, Marina del Rey, and Westchester-Loyola Village. Appendices also were available online via the Project website: <https://www.wildlife.ca.gov/Regions/5/Ballona-EIR>. Project documents, including all reference materials relied upon in preparing the Draft EIS/EIR were available for inspection for the entire 133-day duration of the review period.
- O3-6 See Final EIR Section 1.4, *Agency and Public Involvement*, and Draft EIS/EIR Appendix K1 regarding circulation of the Draft EIS/EIR. See also Final EIR Appendix D, which identifies all recipients of the Final EIR. The comment provides no basis to conclude that the agency and public review process was insufficient under CEQA.
- O3-7 The commenter's attention to and opinion of the Draft EIS/EIR relative to sacred sites is acknowledged. However, the opinion as stated in this comment does not provide sufficient information to allow CDFW to provide a detailed response. See, generally,



Draft EIS/EIR Section 3.5, Final EIR Section 2.3.4 for responses to comments submitted by or behalf of Native American interests, and Response O2-107.

- O3-8 This summary statement from the Draft EIS/EIR is noted, but does not provide any additional information for CDFW's consideration.
- O3-9 Consideration has been given in designing the project to avoid and respect Native American and Tribal resources within the Ballona Reserve. Potential impacts to cultural resources, including Tribal resources, are analyzed in Draft EIS/EIR Section 3.5, *Cultural Resources*. Outreach efforts and a summary of Native American consultation is also discussed in Draft EIS/EIR Section 3.5. Responses to Native American concerns are provided in Section 2.3.4. The stated opinion about the analysis of plants and animals traditionally used by Native Americans is acknowledged and will be available for consideration as part of CDFW's decision-making process.
- O3-10 Draft EIS/EIR Section 3.5, *Cultural Resources*, details Native American outreach and consultation efforts for the Project as required by federal and state law, and as undertaken by the Lead Agencies. This included consultation under National Historic Preservation Act Section 106, involvement of the Native American Heritage Commission, and outreach to Tribal representatives identified by the Native American Heritage Commission as having an interest in the project area, including the specific individuals noted in the comment. CDFW understands that the Corps' consultation initiated under Section 106 of the NHPA is ongoing.
- As a point of clarification, the Native American Graves Protection and Repatriation Act does not apply to the project because federal land is not involved. Recently passed state law, which presumably refers to Assembly Bill 52 as it modifies CEQA, only applies to projects for which a formal notice of preparation was filed after July 1, 2015. This does not apply to the Project. However, as noted, consultation required under other legal authorities was conducted.
- O3-11 As described in Draft EIS/EIR Section 3.5.5, CDFW has initiated consultation with tribal interest representatives, and as part of CEQA and CDFW's Tribal Communication and Consultation Policy, such consultations are ongoing. Additionally, CDFW understands that the Corps' consultation initiated under Section 106 of the NHPA, which can be coordinated with consultation requirements of the American Indian Religious Freedom Act, is ongoing. Information specific to Native American outreach as required under federal law will be provided in the Final EIS.
- O3-12 The commenter is mistaken: the Project does not propose to protect SoCalGas Company infrastructure. See General Response 2, *Proposed Project* (Final EIR Section 2.2.2.3) regarding the proposed removal of SoCalGas Company infrastructure from within the Ballona Reserve. Additionally, see General Response 2 (Final EIR Section 2.2.2.4), which addresses multiple comments regarding parking facilities



within the Ballona Reserve. See Draft EIS/EIR Section ES.3 and Section 1.1 regarding the overall project purpose for purposes of NEPA and the project objectives for purposes of CEQA. Neither the overall project purpose nor the CEQA project objectives evinces an intention to remove habitat. Rather, the Project proposes to restore and enhance a natural range of habitat formations and functions that would be self-sustaining. Although the Project would result in some overall shifts in habitat types and acreages, the Project would restore function to sensitive habitat types and would ensure that habitats within the Ballona Reserve are resilient and self-sustaining. See Draft EIS/EIR Table ES-2, Summary of Habitat Acreages by Alternative, which demonstrates the acreage of each habitat type under existing conditions as well as each of the restoration alternatives. Additionally, see the following figures in the Draft EIS/EIR: Figure 2-1, Alternative 1, Phase 2: Proposed Habitats; Figure 2-43, Alternative 2: Proposed Habitats; and Figure 2-52, Alternative 3: Proposed Habitats. These figures depict the habitat types, which would be restored under the implementation of each restoration alternative.

- O3-13 Ongoing operation and maintenance activities implemented under current (baseline) conditions by the SoCalGas Company are described in the Preliminary Operations and Maintenance Plan included in Draft EIS/EIR Appendix B5. As explained in Response O1-9 and stated in Draft EIS/EIR Section 1.1.2, CEQA Project Objective 4 is to “Develop and enhance wildlife dependent uses and secondary compatible on-site public access for recreation and educational activities.” Under existing (baseline) conditions, CDFW limits public access to the Ballona Reserve “due to health, safety and resource concerns.”<sup>63</sup>
- O3-14 CDFW recognizes that Los Angeles County contains a large population of Spanish speaking residents. CDFW also would like as many members of the public to have the opportunity to provide input. However, as the commenter well knows, Project complexity resulted in delays to releasing the Draft EIS/EIR. Additionally, CDFW must balance budgets with preparing a legally sufficient analysis. Translating the Draft EIS/EIR and its appendices into another language could potentially require a doubling of consulting staff. Translating technical analysis in the Draft EIS/EIR is likely to require technical experts who are fluent in the other language. This technical and language expertise would be required for the entire document and would need to undergo the same internal review by the project team. When balancing the available resources with the goal of public inclusion, CDFW regrets the reality that it is not feasible to translate the Draft EIS/EIR into another language. Of note, and contrary to the suggestion in this comment, neither CEQA, nor any other laws, requires the translation of the Draft EIS/EIR or Final EIR into any non-English language.

The prohibition in Title VI of the Civil Rights Act of discrimination on the basis of national origin has been understood and implemented so as to “improve access to federally conducted and federally assisted programs and activities for persons who, as

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<sup>63</sup> CDFW, 2014. CDFW Urges Californians to Be Mindful of Property Rules on Ballona Wetlands Ecological Reserve. Available online: <https://cdfnews.wordpress.com/tag/ballona-wetlands-ecological-reserve/>. October 1, 2014.





a result of national origin, are limited in their English proficiency (LEP)” (Executive Order No. 13166, 65 Fed. Reg. 159). Executive Order 13166 requires Federal agencies to identify any need for services to those with limited English proficiency, and to “develop and implement a system to provide those services so LEP persons can have meaningful access to them. It is expected that agency plans will provide for such meaningful access consistent with, and without unduly burdening, the fundamental mission of the agency.”<sup>64</sup> The Order also requires Federal agencies to work to ensure that recipients of Federal financial assistance provide meaningful access to their LEP applicants and beneficiaries. For example, the Justice Department partnered with a court in Wisconsin to ensure equal access for limited English proficient court users, the Social Security Administration has a language access plan, and the Department of Health and Human Services addressed the issue in an Alabama child welfare program case involving a non-English speaking Guatemalan father seeking reunification with his daughter, who had been placed in foster care by the Alabama Department of Human Resources after the death of his wife (Id.). Here, the activity of reviewing permit applications requested by CDFW for restoration of the Ballona Reserve does not trigger LEP translation accommodations: the permit applicants are not limited in their English proficiency and would not be receiving funding from the Corps for the work.

California Government Code Section 11135 similarly prohibits discrimination within the State on the basis of national origin. Government Code Section 11135 does not apply to this situation, where a state agency is evaluating potential environmental impacts that could result if a requested discretionary decision were approved.

- O3-15 See Response O3-12. As discussed in Draft EIS/EIR Section 3.7, direct, indirect, and cumulative impacts of GHG emissions generated during restoration activities proposed under Alternatives 1 through 3 would not exceed the SCAQMD’s 1,400 MT CO<sub>2</sub>e per year threshold. Modeled GHG emissions during restoration activities were based on emission factors found in CARB’s OFFROAD2011 model and off-road equipment inventory provided by PSOMAS. In addition, the Project would not conflict with any applicable adopted GHG-related plans, policies, or regulations, or with GreenLA or the County’s CCAP.
- O3-16 See Response O3-12. See also Draft EIS/EIR Section ES.3 and Section 1.1, both of which describe the overall project purpose under NEPA and project objectives under CEQA. See also General Response 2, *Proposed Project* (Final EIR Section 2.2.2.3), regarding the proposed removal of SoCalGas Company infrastructure from within the Ballona Reserve and addressing multiple comments about parking.
- O3-17 As explained in Response O1-9 and stated in Draft EIS/EIR Section 1.1.2, CEQA Project Objective 4 is to “Develop and enhance wildlife dependent uses and secondary compatible on-site public access for recreation and educational activities.”

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<sup>64</sup> LEP.gov, 2018. Limited English Proficiency (LEP) A Federal Interagency Website. Available online: <https://www.lep.gov/>. Accessed December 28, 2018.



- CDFW previously has issued reminders to those who visit the Ballona Reserve to be mindful of the site's specific rules and regulations.<sup>65</sup> Under existing (baseline) conditions, CDFW limits public access to the Ballona Reserve “due to health, safety and resource concerns.”<sup>66</sup> The preference for expanded public access to the Ballona Reserve, independent of CDFW's consideration of the current proposal, is acknowledged and has been included in the formal record, where it may be considered as part of CDFW's decision-making process. See Final EIR Section 2.1.1, *Input Received*.
- O3-18 See Response 02-45. The comment claims that the nearby great blue heron rookery relies upon the small mammal and reptile population, and that if grasslands in Area A are disturbed the herons would have less to eat and the rookery would collapse. Great blue herons are principally piscivores that forage opportunistically for small fish at the edge of aquatic sites. While their diet can include small mammals and rodents, planned modifications to Area A will not substantially diminish the foraging opportunities during construction. Following construction, Area A would support an abundance of high-quality aquatic foraging habitat – which is the great blue heron's preferred foraging habitat. The Project would thereby improve foraging opportunities for juvenile herons in close proximity to the rookery.
- O3-19 Draft EIS/EIR Section 3.4 acknowledges that white-tailed kite forages in Area A and other parts of the Project Site. Impacts to this species and its habitat are addressed in Section 3.4.6 and Section 3.4.7. For example, as discussed under Impact 1-BIO-1m, overall, the Project would not result in the net loss of raptor breeding habitat. Although a portion of suitable upland foraging habitat would be converted to tidal marsh, the marsh also would provide raptor foraging habitat that is comparable or better than to pre-Project conditions.
- O3-20 As shown in Draft EIS/EIR Figure 3.4-2, Study Area Habitat Types, Area A primarily consists of invasive monoculture, and there are only limited amounts of annual grassland. The Draft EIS/EIR acknowledges that annual grassland can be important habitat for upland species such as burrowing owl.
- O3-21 The presence of native ants and other invertebrates is considered in the EIR. See, e.g., Draft EIS/EIR Table 3.4-7, Common Non-Native Wildlife Species within or Adjacent to the Project Site, which specifically identifies ants and honey bees. See also General Response 5, *Common Terrestrial Invertebrates* (Final EIR Section 2.2.5.2), which addresses multiple comments received about the biological resources baseline. While the comment focuses exclusively on Area A, the Project and the analysis of its potential environmental impacts focus on restoration of the Ballona Reserve. See also Final EIR Section 3.2.6, regarding CDFW's identification of Alternative 1 as the Environmentally Superior Alternative for purposes of CEQA. As indicated in Final

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<sup>65</sup> CDFW, 2014. CDFW Urges Californians to Be Mindful of Property Rules on Ballona Wetlands Ecological Reserve. Available online: <https://cdfgnews.wordpress.com/tag/ballona-wetlands-ecological-reserve/>. October 1, 2014.

<sup>66</sup> Id.



- EIR Section 3.2.6, CDFW independently has determined on the basis of evidence in the record that the long-term benefits of the Project would outweigh short-term impacts to the existing environment.
- O3-22 See General Response 8, *Public Participation* (Final EIR Section 2.2.8.1), regarding the availability of the reference material relied upon in drafting the Draft EIS/EIR. See also General Response 7, *Requests for Recirculation* (Final EIR Section 2.2.7).
- O3-23 The comment asks what will happen to “listed” plants in Area A and North Area C, specifically citing Lewis’ evening primrose. Lewis’ evening primrose is not a federal or state-listed threatened or endangered species, and no plant species listed under the Federal or California Endangered Species Acts occur at the Ballona Reserve. This species has a California Rare Plant Rank of 3, and is not considered as a formal “rare” species by the State. Potential impacts to Lewis’ evening primrose areas and appropriate mitigation measures are presented in Draft EIS/EIR Section 3.4.6, *Direct and Indirect Impacts*. For example, Impact 1-BIO-1b acknowledges direct and indirect impacts to the Lewis’ evening primrose population in Areas A and C. Mitigation Measure BIO-1b-I (Special-Status Plants) would mitigate any unavoidable impacts to the population by re-establishment of individual plants in restored habitat onsite at a minimum of 1:1 (number of plants established: number of plants impacted), and subsequent management and monitoring to ensure planting success. Concern for populations of Lewis’ Primrose and disagreement with conclusions reached in the Draft EIS/EIR about the efficacy of recommended mitigation measures is acknowledged and has been included in the record for the project, where it can be taken in to consideration as part of CDFW’s decision-making process.
- O3-24 See General Response 5, *Biological Resources* (Final EIR Section 2.2.5.1), which discusses potential impacts to common plant species, including lichens, and bryophytes. See Response O3-2, regarding the inclusion of photographs taken by Mr. Coffin in the formal record.
- O3-25 The Woolly seablite (*Suaeda*) population that occurs at the Ballona Reserve is documented in Draft EIS/EIR Section 3.4. Woolly seablite is a non-listed plant species and a somewhat common California Rare Plant Rank 4.2 species. The commenter’s preferences that this species be allowed to remain in place and not be grown under nursery conditions are noted; however, no evidence is provided in support of the preferences. By comparison, the Draft EIS/EIR provides a sound basis for the salvage and relocation of the woolly seablite population, consisting of approximately 85 plants. This would occur under Alternative 1 Phase 2, whereby plants may be directly transferred to suitable restored habitat within Area A without the need for nursery propagation. The Draft EIS/EIR concludes on the basis of the analysis provided that potential impacts to this population would be minimal. The commenter’s unsubstantiated opinion does not provide a basis for CDFW to reconsider the analysis or its conclusions.





- O3-26 A list of primary sources of biological information were used in preparing Draft EIS/EIR Section 3.4, *Biological Resources*, is provided in Draft EIS/EIR Section 3.4.2.1, *Study Area*. In addition, Appendix D, *Biological Resources*, includes a number of baseline studies used in preparation of Section 3.4, including site-specific and Project-specific studies of botanical resources, habitat types, benthic invertebrates, terrestrial invertebrates, fish, reptiles and amphibians, birds, and mammals.

CDFW has not made a final decision as to which alternative will be selected. Instead, CDFW has expended considerable time and effort in evaluating the potential impacts of all of the restoration alternatives analyzed in the Draft EIS/EIR. Consistent with Executive Order 13807 (82 Fed. Reg. 40463), which established a One Federal Decision policy, CDFW understands that the Corps will make its decision in a Record of Decision, following the preparation of a Final EIS, that will address both the environmental review and permitting processes. In turn, CEQA requires a Final EIR to be available for at least 10 days before a lead agency makes a decision about a proposed project. All information contained in the record, including these comments, will be considered by CDFW in its decision-making process.

- O3-27 This recitation from the CEQA regulatory framework discussion from Draft EIS/EIR Section 3.4 related to rare plants and statement of preference that plants be protected and not repotted for later transplantation are acknowledged. The comment does not suggest a deficiency in the Draft EIS/EIR analysis and does not provide additional data or other evidence that informs CDFW's consideration of the potential impacts of the proposed restoration. See Final EIR Section 2.1.1, *Input Received*.

- O3-28 See General Response 5, *Biological Resources* (Final EIR Section 2.2.5.1), which discusses potential impacts to common species, including lichens. Without more information about the lichen expert's qualifications and findings, CDFW is unable to verify the existence of the lichen mentioned in the comment.

- O3-29 The Scoping Report documents and includes input received from the Ballona Institute dated October 23, 2012.

Regarding the request to select the "Wildlife-Friendly Alternative" proposed by the Ballona Institute as the "preferred alternative," see Final EIR Section 3.2.6, which explains the justification for CDFW's selection of the Project as the Environmentally Superior Alternative. CEQA does not require a lead agency to identify a "preferred alternative" under any circumstances. CDFW acknowledges that reasonable minds may prefer different approaches to restoration, and notes the commenter's preference for the philosophy of Aldo Leopold. This statement of preference, without more, does not support a conclusion that the approach documented in the Draft EIS/EIR is inadequate.

Regarding soil crusts and the species that rely on them, see Response O3-23, Response O3-24, and Response O3-63.



Regarding the Draft EIS/EIR's consideration of potential impacts to bees and other pollinators, see Response O3-21. See also General Response 5 (Final EIR Section 2.2.5.1) regarding the Baseline for Common Terrestrial Invertebrates for additional information specifically about Crotch bumble bee (*Bombus crotchii*).

The request to "apply the rejuvenation principles" is acknowledged. See Response I59-2, acknowledging receipt of the Ballona Ecosystems Rejuvenation Seven Guiding Principles. However, the preference that these principles be applied does not inform the Lead Agencies' consideration of the adequacy or accuracy of EIR's analysis or conclusions. See Final EIR Section 2.1.1, *Input Received*, regarding comments that do not warrant detailed agency responses under CEQA.

The avian species identified in Point 4 of the commenter's 2012 letter are described in Draft EIS/EIR Section 3.4. Section 3.4 also analyzes potential direct, indirect, and cumulative impacts to these species. Specifically regarding the kite, see also Response O3-19. Specifically regarding the great blue heron, see also Response O3-18. See also General Response 5, *Biological Resources* (Final EIR Section 2.2.5), for more information about the analysis of impacts to avian species.

Draft EIS/EIR Section 3.4 also describes and analyzes potential impacts to butterfly species, including monarch butterfly (*Danaus plexippus*) and El Segundo blue butterfly (*Euphilotes battoides allyni*). As described in Section 3.4.2.2, which discusses the benthic and terrestrial invertebrates present within the Ballona Reserve under existing (baseline) conditions, butterfly surveys conducted by Friends of Ballona Wetlands between 2008 and 2016 yielded 39 butterfly species. A list of these species is provided in Draft EIS/EIR Appendix D5 Table D5-2.

Regarding potential impacts to spiders, see General Response 5, *Biological Resources* (Final EIR Section 2.2.5), which discusses them in the context of common terrestrial invertebrates.

Draft EIS/EIR Section 3.4 describes and analyzes potential impacts to moths, including Henne's eucosman moth (*Eucosma henei*). See Draft EIS/EIR Table 3.4-4, Special-Status Wildlife Species Known to Occur or Potentially Occurring within the Project Site.

Regarding potential impacts to common plant species, including mushrooms, other fungi, and bryophytes, see General Response 5, *Biological Resources* (Final EIR Section 2.2.5).

Draft EIS/EIR Section 3.4 describes and analyzes potential impacts to submerged aquatic vegetation, including in Southern mud intertidal habitats. See Draft EIS/EIR Table 3.4-1, Habitat Categories, Types, Descriptive Characteristics, and Existing Acreage. See also Draft EIS/EIR Table 3.4-4, Special-Status Wildlife Species Known to Occur or Potentially Occurring within the Project Site, and related text, which



describe the habitat requirements of the common gallinule (*Gallinula galeata*) as requiring submerged plants.

Regarding ants, see Response O3-21.

Regarding common insects, dragonfly and damselfly species, see General Response 5, *Biological Resources* (Final EIR Section 2.2.5).

Draft EIS/EIR Section 3.4 describes and analyzes potential impacts to beetles, including Globose dune beetle (*Coelus globosus*), Western tidal flat tiger beetle (*Cicindela gabbii*) and Western S-banded tiger beetle (*Cicindela trifasciata sigmoidea*). See, e.g., Draft EIS/EIR Table 3.4-4, Special-status Wildlife Species Known to Occur or Potentially Occurring within the Project Site, and related text.

Draft EIS/EIR Section 3.5.2.2 describes seasonal coastal fog as a relevant part of the environmental setting. Tule fog is different: tule fog is a thick ground fog more closely associated with California's Central Valley. The term "tule" comes from the plant of the same name (*Schoenoplectus acutus*), which dominates marshes in the Central Valley (Pappas, 2014<sup>67</sup>). Tule fog is not commonly understood to be an important feature of the Ballona Wetlands environment and Draft EIS/EIR Section 3.4 does not identify tule as a marsh species present within the Ballona Reserve. In any event, Draft EIS/EIR Section 3.4 describes the habitat conditions and species within the Ballona Reserve and analyzes the impacts of the project and alternatives on those biological resources. In turn, Draft EIS/EIR Section 3.7 describes greenhouse gas emissions and potential climate change-related impacts. Neither Point 16 in the commenter's scooping letter nor this Comment O3-29 identifies a deficiency in the EIR.

Draft EIS/EIR Section 3.4 describes and analyzes potential impacts to small mammals, including South Coast marsh vole (*Microtus californicus stephensi*) and Southern California salt marsh shrew (*Sorex ornatus salicornicus*). See, e.g., Draft EIS/EIR Table 3.4-4, Special-status Wildlife Species Known to Occur or Potentially Occurring within the Project Site, and related text. Further, Draft EIS/EIR Figure 3.4-16, depicts the distribution of occupied habitat for south coast marsh vole within the Project Site.

Potential impacts of the Project to biological resources (whether from machinery, worker transport vehicles, or other Project causes) are analyzed in Draft EIS/EIR Section 3.4. Section 3.4 also identifies potential Project-related benefits to species and habitats. As explained in EIS/EIR Section 3.2.6, regarding CDFW's identification of the Project as the Environmentally Superior Alternative, it is expected that what the

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<sup>67</sup> Pappas, 2014. California Tule Fog Becoming Increasingly Rare (Photo). Live Science. Available online: <https://www.livescience.com/46121-california-tule-fog.html>. June 5, 2014





commenter calls the “equilibrium of the various mosaic of ecosystems present” at the Project Site will change over time for the better.

Potential impacts to air quality in the surrounding community are analyzed in Draft EIS/EIR Section 3.3; Potential impacts of Project traffic are analyzed in Draft EIS/EIR Section 3.12.

As explained in Draft EIS/EIR Section 2.3.10.5, none of the restoration alternatives proposes to reintroduce wildlife species that are not currently present within the Ballona Reserve. However, also as discussed in Section 2.3.10.5, each would provide appropriate habitat for natural recolonization and would not preclude CDFW from reintroducing species in the future as part of a separate endeavor.

Requests that CDFW “review and analyze all relevant historical maps and reports related to the Ballona Wetlands” to determine consistency of the proposed restoration alternatives with historical conditions is beyond the scope of the Draft EIS/EIR, which analyzes the impacts of the proposed restoration relative to existing (baseline) conditions described as the Affected Environment in each of the resource sections in Draft EIS/EIR Chapter 3.

See Response O2-23 regarding the consideration that has been given in designing the Project to avoid and respect Native American and Tribal resources.

- O3-30 Draft EIS/EIR Section 3.5, *Cultural Resources*, and the historical resources evaluation report for the project (Daly, 2015) document and discuss the Ballona Creek Flood Control Channel (P-19-187805) as a potential historical resource, but the portion of the resource within the Project Site was determined to be ineligible for listing in the California Register of Historical Resources and National Register of Historic Places. The California State Historic Preservation Officer concurred with the National Register determination. For responses to input provided by Los Angeles County, see Final EIR Section 2.3.3.
- O3-31 This comment suggests that there are many factual errors and misrepresentations in the Draft EIS/EIR, but fails to identify any. Without additional detail, CDFW does not have enough information to provide a detailed response. See, generally, Draft EIS/EIR Chapter 5, which identifies the preparers of and contributors to the Draft EIS/EIR. The comment does not take issue with the credentials of anyone identified there.
- O3-32 See General Response 5, *Biological Resources* (Final EIR Section 2.2.5), which addresses multiple comments received about biological resources, including Orcutt’s yellow pincushion.
- O3-33 The comment asks for the source of the Draft EIS/EIR information that California least tern has low potential to nest, and low potential to forage at the Ballona Reserve, stating that the tern regularly forages in Ballona Creek and in sloughs of the Ballona



- Reserve. The commenter notes that rails nest in upland areas and that both upland and wetland areas should be protected. The sources of the potential nesting/foraging statement are references that were cited in Draft EIS/EIR Section 3.4 and include: California Least Tern Foraging Study Marina Del Rey Dredging Project (Keane Biological Consulting, 2013), California Least Tern Breeding Survey 2011 Season (Marschalek 2011), personal communications with CDFW staff, and other sources. Draft EIS/EIR Appendix D5, Table D5 11, History of California Least Tern Nesting in the Vicinity of Ballona Wetlands, 1973–2011, summarizes least tern nesting activity and productivity in the vicinity of the Ballona Reserve from 1973 to 2011. As stated in the Draft EIS/EIR, Keane Biological Consulting (2013) observed individuals foraging immediately along the coast and in the entrance channel for Marina del Rey Harbor, north of the Ballona Creek channel. This study considered Ballona Creek as potential least tern foraging habitat, a conclusion that was carried forward in the Draft EIS/EIR; however, active foraging was not described by observers. Hence, while California least tern may forage in Ballona Creek, which provides foraging habitat for an aerial diving piscivore, the Ballona Reserve lacks comparable open water foraging habitat. Hence, based on site observations, biological surveys, and the general lack of foraging habitat within the Ballona Reserve, the Draft EIS/EIR concluded that the potential for California least tern foraging within the Project Site is considered low. The Project would improve foraging habitat for California least tern within the Ballona Reserve and may potentially provide nesting opportunities, thereby expanding and improving available habitat for this species and promoting habitat connectivity that benefits rails.
- O3-34 As identified in Draft EIS/EIR Appendix D10, gray fox was acknowledged as on-site in the Draft EIS/EIR. As stated in General Response 5, *Biological Resources* (Final EIR Section 2.2.5), the presence of common wildlife species is acknowledged in the Draft EIS/EIR and does not update or change the conclusions of the analysis.
- O3-35 As described in Draft EIS/EIR Section 3.1.4, the cumulative scenario includes past, other present, and reasonably foreseeable future projects approximately as of the date of the initiation of the environmental review process (i.e., issuance of CDFW's NOP). The list of 47 potentially cumulative projects provided in Draft EIS/EIR Table 3.1-1 was developed on the basis of input received from a variety of agencies in the region. Requests for input were sent to the Corps, CDFW, SoCalGas, Los Angeles County Department of Public Works, Los Angeles County Department of Planning, Los Angeles County Department of Beaches and Harbors, California Coastal Commission, California State Lands Commission, California Environmental Protection Agency, Loyola Marymount University, Santa Monica Bay Restoration Commission, and the City of Los Angeles Planning Department. Follow-up phone calls and/or emails were made to the jurisdictions contacted to obtain input. This effort demonstrates a reasonable good-faith effort to identify potential contributors to cumulative conditions that could be affected by implementation of the proposed restoration. This comment provides no information about how utility operations, the Cedars Sinai expansion, Trader Joe's shopping center, Toyota parking lot, or Silicon



- Beach expansions could contribute to cumulative impacts to any resource area so as to change the conclusions of the analysis. Without some information about why the commenter believes these projects should have been included in the analysis or why the failure to do so has resulted in an inadequacy, CDFW does not have enough information to provide a more detailed response.
- O3-36 Draft EIS/EIR Section 3.4 describes the Federal Endangered Species Act Section 7 consultation process, and the relevance of Section 7 consultation to the Project. This section states which federally listed species require Section 7 consultation and which federally listed species do not:
- “Following completion of a biological assessment (Appendix D17), the Corps has made a determination that implementation of Alternative 1 may affect, but is not likely to adversely affect, the following Federally-listed species: El Segundo blue butterfly, light-footed Ridgway’s rail, coastal California gnatcatcher, California least tern, and least Bell’s vireo. As such, Section 7 consultation with USFWS is required. In addition, the Corps has made a no effect determination regarding the following species: coastal dunes milk-vetch, salt marsh bird’s beak, Ventura marsh milk-vetch, Pacific pocket mouse, steelhead, green sea turtle, blue whale, fin whale, humpback whale, sei whale, sperm whale, gray whale, Guadalupe fur seal, leatherback turtle, loggerhead turtle, olive ridley sea turtle, and the scalloped hammerhead shark. As such, Section 7 consultation is not required for these species.”
- O3-37 The commenter’s support for Alternative 4 is acknowledged and has been included in the record, where it will be available for consideration as part of CDFW’s decision-making process. See Final EIR Section 2.1.1, *Input Received*.
- O3-38 The commenter’s experience in a case related to the Grand Canal/Ballona Lagoon is acknowledged. However, because this comment does not address the adequacy or accuracy of the EIR or the merits of the alternatives, it may be considered as part of CDFW’s overall decision-making process rather than specifically as part of the CEQA process.
- O3-39 See General Response 4, *Drains* (Final EIR Section 2.2.4), which addresses multiple comments received about these drains.
- O3-40 Receipt of this photograph of a Least bell’s vireo is acknowledged, but does not inform CDFW’s consideration of the potential impacts of the proposed restoration. See Final EIR Section 2.1.1, *Input Received*. Draft EIS/EIR Section 3.4 discusses and analyzes potential impacts to this species.
- O3-41 Receipt of these wildlife photographs is acknowledged, but does not inform CDFW’s consideration of the potential impacts of the proposed restoration. See Final EIR Section 2.1.1, *Input Received*.





- O3-42 Receipt of these photographs of Belding’s savannah sparrow is acknowledged, but the photographs do not inform CDFW’s consideration of the potential impacts of the proposed restoration. See Final EIR Section 2.1.1, *Input Received*. Draft EIS/EIR Section 3.4 discusses and analyzes potential impacts to this species.
- O3-43 See Response O3-40.
- O3-44 Receipt of this photograph of a rail is acknowledged, but does not inform CDFW’s consideration of the potential impacts of the proposed restoration. See Final EIR Section 2.1.1, *Input Received*. Draft EIS/EIR Section 3.4 discusses and analyzes potential impacts to this species.
- O3-45 Receipt of this this list of special-status species with accompanying photographs is acknowledged, but does not inform CDFW’s consideration of the potential impacts of the proposed restoration. See Final EIR Section 2.1.1, *Input Received*. Draft EIS/EIR Section 3.4 discusses and analyzes potential impacts to special-status species.
- O3-46 Receipt of this information about California brown pelican, American peregrine falcon, and white-tailed kite is acknowledged, but does not inform CDFW’s consideration of the potential impacts of the proposed restoration. See Final EIR Section 2.1.1, *Input Received*. Draft EIS/EIR Section 3.4 discusses and analyzes potential impacts to these species.
- O3-47 Receipt of this information about Palmer’s goldenbush is acknowledged, but does not inform CDFW’s consideration of the potential impacts of the proposed restoration. See General Response 5, *Biological Resources* (Final EIR Section 2.2.5), regarding comments about this species as well as lichens.
- O3-48 Regarding spiders, ants, dragonflies, damselflies, and butterflies, see Response O3-29 and General Response 5, *Invertebrates* (Final EIR Section 2.2.5.2).
- O3-49 The relevance of the Migratory Bird Treaty Act to the Project is described in Draft EIS/EIR Section 3.4.3.1, which discloses, “Most bird species found within the vicinity of the Project Site are protected under the MBTA.” Potential direct and indirect impacts to Migratory Bird Treaty Act-protected species are analyzed in Draft EIS/EIR Section 3.4.6 (see, e.g., Mitigation Measure BIO-1i-i: Nesting Bird and Raptor Avoidance).
- O3-50 The commenter’s inclusion of photos of birds, insects, and plants species that may be found in the Ballona Reserve is acknowledged. However, these photographs do not address the adequacy or accuracy of the EIR or the merits of the alternatives. See Final EIR Section 2.1.1, *Input Received*.
- O3-51 Analysis regarding potential impacts to recreational resources is included in Draft EIS/EIR Section 3.11, *Recreation*. The commuting role of existing bike paths is discussed in Section 3.12, *Transportation*. Contrary to the commenter’s suggestion,



- implementation of the Project or Alternative 2 would result in an increase in public access and recreational resources within the Ballona Reserve. Approximately 19,000 linear feet of combined pedestrian and Class I bicycle paths, 29,000 additional linear feet of pedestrian-only trails, and 2,000 linear feet of elevated boardwalks would be built within the Ballona Reserve under the Project. Public access improvements to Alternative 2 would be comparable to those of the Project. Potential impacts to bicycle transportation are discussed in the analysis of Impact 1-TRANS-6, which explains, “the Ballona Creek Bike Path would remain open during restoration activities. Eventually the path would have two different routes for riders to choose between.” Therefore, the Project would have minimal impacts on bicycle commuters. Impacts to bicycle commuters would be similar for Alternative 2 and Alternative 3.
- O3-52 The rowing-related use of the Ballona Creek channel is described in Draft EIS/EIR Section 3.11. Impacts to this recreational use are analyzed in Section 3.11.6 (direct and indirect impacts) and Section 3.11.7 (cumulative impacts). Under Alternative 1, the length of the straightaway would be reduced to 1,372 meters. Therefore, rowing competitions would no longer be able to be held in Ballona Creek channel. However, the channel would remain open during the Project’s restoration phase. Therefore, non-competitive, recreational rowing and boating could continue during and after restoration. Use of Ballona Creek channel as a recreational facility for boaters would continue during implementation of the Project.
- O3-53 Implementation of the Project would result in a realignment of the Ballona Creek Bike Path into two paths. The first path would continue along the northern perimeter of Area A and could be accessed from two entrances. The second route would consist of “a new combined pedestrian and bicycle path along the new Culver Boulevard levee parallel to Culver Boulevard.” Therefore, the Project would result in two bike path options for both recreationalists and commuters. The rerouting of the Ballona Creek Bike Path that would occur under the Project would increase the distance of the Ballona Creek Bike path by approximately 0.4 miles. This amount has been determined not to be significant and not to significantly alter recreational or commuting use of the path.
- O3-54 Impacts to bicycle commuters are discussed under Impact 1-TRANS-6 in Draft EIS/EIR Section 3.12, which analyzes whether the Project would adversely affect alternative transportation travel modes, expressly including bicycle travel. As noted in that discussion, “the Ballona Creek Bike Path would remain open during restoration activities. Eventually the path would have two different routes for riders to choose between.” Additionally, changes to the path would add just 0.4 miles to the section of the path that goes through the Ballona Reserve. These changes would not significantly alter use of the path for commuting. The commenter’s belief that these changes would inconvenience commuters is acknowledged and may be taken into consideration as part of CDFW’s decision-making process. See Final EIR Section 2.1.1, *Input Received*.

- O3-55 The suggestion that existing emergency access along the north levee is incorrect. See Response O3-53 regarding the proposed realignment.
- O3-56 See Responses O3-51 and O3-52.
- O3-57 See Response O3-55. See also Draft EIS/EIR Section 3.8, which analyzes the significance of changes to emergency access as a result of the Project in the context of Impact 1-HAZ-6.
- O3-58 Draft EIS/EIR Section 3.4.6 analyzes potential impact to wildlife and habitats due to increased human activity associated with reopening the Ballona Reserve for passive recreation. With the implementation of Project Design Feature BIO-3 (Habitat Restoration and Monitoring Plan), which includes establishing procedures for avoidance and minimization of adverse impacts to sensitive biological resources during post-restoration operations and maintenance activities (i.e., establishing buffer zones between trails and restored habitats), these potential impacts would be reduced to a less-than-significant level.
- Further, as stated in Draft EIS/EIR Section 1.1.2, CEQA Project Objective 4 is to “Develop and enhance wildlife dependent uses and secondary compatible on-site public access for recreation and educational activities.” CDFW previously has issued reminders to those who visit the Ballona Reserve to be mindful of the site’s specific rules and regulations.<sup>68</sup> Under existing (baseline) conditions, CDFW limits public access to the Ballona Reserve “due to health, safety and resource concerns.”<sup>69</sup> As described in the Preliminary Operations and Maintenance Plan provided in Draft EIS/EIR Appendix B5, CDFW would continue to do so if one of the restoration alternatives were approved.
- O3-59 See General Response 5, *Biological Resources*, regarding Belding’s savannah sparrow (Final EIR Section 2.2.5.4), which addresses multiple comments received about this species.
- O3-60 The comment suggests that the Draft EIS/EIR does not disclose “a wide variety of species” that currently use the north and south levees or the habitat impacts that would result if the Project were approved. Draft EIS/EIR Section 3.4.2.2 describes the common and special-status wildlife that are known to occur or have the potential to occur on the Project Site. For example, the Draft EIS/EIR states that burrowing owl has been reported near the Ballona Creek levee in Area A. Section 3.4.6 and Section 3.4.7 evaluate the impacts of the alternatives to special-status species and habitats. Without some information about which species or habitat impacts are of concern, CDFW does not have enough information to provide a more detailed response.

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<sup>68</sup> CDFW, 2014. CDFW Urges Californians to Be Mindful of Property Rules on Ballona Wetlands Ecological Reserve. Available online: <https://cdfgnews.wordpress.com/tag/ballona-wetlands-ecological-reserve/>. October 1, 2014.

<sup>69</sup> Id.





- O3-61 See Draft EIS/EIR Appendix F1 for an analysis of the sediment dynamics within Ballona Creek.
- O3-62 See Response O3-63.
- O3-63 Mr. Van de Hoek did not include details about these plants' specific location in his oral or written public comments and CDFW has been unable to verify the existence of this species within the Ballona Reserve. See General Response 5, *Biological Resources* (Final EIR Section 2.2.5), which responds to multiple comments about the potential presence of Palmer's goldenbush.